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17 1666 Connecticut Avenue, N.W., Suite 310
18 Washington, D.C. 20009
19 Telephone: (202) 742-7783
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21 *Attorneys for Plaintiff*

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA

24 SHAVOTNAE GOLDSBY, AND ALL OTHERS
25 SIMILARLY SITUATED,

26 Plaintiff,

27 vs.

28 ADECCO, INC, and DOES 1 through 100, inclusive,

Defendants.

No. CV-07-5604 MMC

**DECLARATION OF DANIEL H.
QUALLS IN SUPPORT OF PLAINTIFF
SHAVOTNE GOLDSBY'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO MODIFY PRETRIAL
PREPARATION ORDER**

DATE: AUGUST 1, 2008

TIME: 10:30 A.M.

CTRM: 7

JUDGE: HON. MAXINE M. CHESNEY

1 I, Daniel H. Qualls, declare as follows:

2 1. I am an attorney at law, duly licensed to practice before all the courts of the State of
3 California, and am a Partner with the law firm of Qualls & Workman, L.L.P., attorneys of record
4 herein for Plaintiff Shavotnae Goldsby. The following is based on my personal knowledge, and if
5 called upon to do so, I could and would competently testify thereto.

6 2. Plaintiffs contend ADECCO maintains employee records depicting when meal
7 period breaks were not taken by hourly employees. Plaintiff contends ADECCO did not pay
8 Goldsby an additional hour of compensation for missed meal period breaks. Goldsby's
9 employment with ADECCO terminated on December 26, 2006. Attached hereto as Exhibit A is a
10 true and correct copy of Plaintiff's Class Action Complaint filed on July 26, 2007. The Complaint
11 was served on ADECCO on August 17, 2007.

12 3. On August 27, 2007, Plaintiff served her first set of special interrogatories and
13 demand for production of documents on ADECCO. Attached hereto as Exhibit B is a true and
14 correct copy of Plaintiff's First Set of Special Interrogatories to Defendant. ADECCO did not
15 provide any of the requested information in its response, which it served on Plaintiff on November
16 1, 2007.

17 4. ADECCO did not provide any of the requested information in its response, which it
18 served on Plaintiff on November 1, 2007. Instead, it filed objections on numerous grounds,
19 including claims that the requested information violated the rights of privacy of the affected
20 persons and that the requests were burdensome. Attached hereto as Exhibit C is a true and correct
21 copy of Defendant's Responses to Plaintiff's First Set of Special Interrogatories.

22 5. On September 7, 2007, Plaintiff served notices seeking to take the depositions of
23 ADECCO's Persons Most Knowledgeable regarding 1) ADECCO policy and procedures
24 regarding issuance of final payroll checks to terminated California employees; 2) ADECCO
25 California meal period break policies; and 3) ADECCO meal period break record keeping
26 practices and procedures. The depositions were noticed to proceed on September 25, 2007.
27 ADECCO then requested that the depositions be extended for 15 days, and Plaintiff agreed to do
28

1 so. Attached hereto as Exhibit D are true and correct copies of Plaintiff's Deposition notices dated
2 September 7, 2008.

3 6. On November 2, 2007, ADECCO removed this case to federal court.
4 Consequently, Plaintiff's ability to commence discovery was placed on hold until the parties held
5 a Rule 26 Initial Disclosure Conference on February 1, 2008. Attached hereto as Exhibit E is a
6 true and correct copy of the Notice of Removal.

7 7. Following the Rule 26 Conference, on February 5, 2008, Plaintiff served Rule
8 30(b)(6) deposition notices seeking the same knowledge from ADECCO as previously noticed on
9 September 7, 2007. These depositions were initially noticed for March 5, 2008, and then were
10 again rescheduled to May 22, 2008 per ADECCO's request. As the May 22 date approached,
11 ADECCO sought to reschedule the depositions for the fifth time. Attached hereto as Exhibit F are
12 true and correct copies of Plaintiff's Rule 30 (b)(6) deposition notices.

13 8. On June 4, 2008, Plaintiff's counsel took the deposition of ADECCO's
14 representative, Kim Hans, Vice President of Operations, Southwest Division on the noticed topics.
15 At this deposition, Plaintiff learned the nature of Defendant's recordkeeping practices for the first
16 time: the various methods by which ADECCO hourly employees record their meal periods and
17 the existence of ADECCO's records thereof. Attached hereto as Exhibit G are true and correct
18 copies of Kim Hans' deposition testimony.

19 9. On February 15, 2008, this Court entered its Pretrial Preparation Order (Order)
20 pursuant to Rule 16 of the Federal Rules of Civil Procedure. The Order set forth a timeline for the
21 amendment of pleadings, discovery, class certification, and trial. Plaintiff seeks modification of
22 the deadlines for the class certification briefing schedule. The class certification schedule was to
23 begin with the July 7, 2008 deadline for Plaintiff to file her motion for class certification, and
24 culminating in a hearing before this Court on September 5, 2008. Attached hereto as Exhibit H is
25 a true and correct copy of the Court's February 15, 2008 order.

26 10. Good cause exists for the modification of the Court's Pretrial Preparation Order
27 requested. Plaintiff's proposed class is defined based upon meal period records maintained by
28 Defendant. At the outset of this action, Plaintiff promptly sought contact information for putative

1 class members. Defendant failed to supply such information based on, among other objections,
2 that such request was burdensome. Plaintiff was required to obtain discovery regarding the nature
3 of Defendant's meal period record keeping to address and refute Defendant's burden objection
4 before seeking an order of this Court requiring such discovery responses. Plaintiff was unable to
5 procure this deposition testimony until June 4, 2008. Accordingly, Plaintiff's ability to procure
6 putative class member contact information was delayed through no actions of Plaintiff. Such
7 delay also delayed the preparation of Plaintiff's motion for class certification.

8 11. In compliance with Civil L.R. 16-2(d)(2), Plaintiff's counsel met and conferred
9 regarding the proposed modifications to the scheduling order on June 13, 20, and 24, 2008.
10 Defense counsel was willing to stipulate only to a 30-day extension of the class certification
11 briefing schedule.

12 I declare under penalty of perjury that the foregoing is true and correct and that this
13 Declaration was executed June 27, 2008, in San Francisco, California.

14 
15 _____
16 DANIEL H. QUALLS
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EXHIBIT A.

ENDORSED
FILED
ALAMEDA COUNTY

JUL 26 2007

CLERK OF THE SUPERIOR COURT
BY YASMIN SINGH, Deputy

David Sanford, D.C. Bar No. 457933
Meenoo Chahbazi, CA Bar No. 233985
Angela Corridan, D.C. Bar No. 492978
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Facsimile: (415) 788-1028

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

SHAVOTNAE GOLDSBY, AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

ADECCO, INC, and DOES 1 through 100, inclusive,

Defendants.

No. **RG07337683**

CLASS ACTION
COMPLAINT

BY FAX

Plaintiff Shavotnae Goldsby ("Goldsby") by her attorneys, brings this action on behalf of herself, all other persons similarly situated and the general public, and hereby alleges as follows:

PARTIES

1. Plaintiff Shavotnae Goldsby is a California resident and natural person.

2. Plaintiff is informed and believes and on that basis alleges that ADECCO, Inc. (Adecco and/or Defendant) is and at all times material herein mentioned was, a corporation doing business in the State of California and within the County of San Francisco.

3. The names and capacities of defendants sued herein under California Code of Civil Procedure §474 as Does 1 through 100, inclusive, are presently not known to Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek to amend this Complaint and include these Doe defendants' names and capacities when they are ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by Plaintiff, the members of the Class and the general public.

4. At all times mentioned in the causes of action alleged herein, each and every defendant was an agent and/or employee of each and every other defendant. In doing the things alleged in the causes of action stated herein, each and every defendant was acting within the course and scope of this agency or employment and was acting with the consent, permission and authorization of each of the remaining defendants. All actions of each defendant as alleged in the causes of action stated herein were ratified and approved by every other defendant or their officers or managing agents.

FACTS APPLICABLE TO ALL CLAIMS

5. Plaintiff incorporates herein by reference each and every allegation set forth in paragraphs 1 through 4 above.

6. This action alleges that Defendant failed to pay its California hourly employees compensation for work without meal break periods in violation of California Labor Code § 226.7 and applicable Industrial Welfare Commission Orders.

7. This action seeks relief for unremedied violations of California law, including, inter alia; damages, and/or restitution, as appropriate, to members of the Class, and to victims of the

practices at issue, who have not received compensation for labor provided without meal period breaks, and who have failed to receive accurate itemized statements.

8. Goldsby is an adequate and proper class representative. Goldsby brings this action in her individual capacity, on behalf of all others similarly situated, and, pursuant to California Business & Professions Code §17204, on behalf of the general public. Plaintiff Goldsby was employed by ADECCO in California, within the four years preceding the filing of this Complaint, and paid on an hourly basis. While employed by ADECCO, Plaintiff Goldsby was required to work without meal period breaks as defined and required by law. Defendant failed to provide Goldsby, and all other similarly situated ADECCO California employees, with off-duty meal period breaks, compensation for the lack of said breaks, and failed to provide Goldsby and all others similarly situated California employees with an accurate itemized statement.

9. Defendants are, and at all relevant times were, employers under applicable California Industrial Welfare Commission Orders.

10. This action seeks relief on behalf of a class of persons in the employ of ADECCO in California within four years preceding the filing of this complaint and the present comprised of:
persons paid on an hourly basis for whom ADECCO records depict a meal period not taken who did not receive a compensation payment by ADECCO for the lack of said meal period (the Class);

11. The class is sufficiently numerous, since it is estimated to include approximately 2,000 or more ADECCO employees geographically dispersed throughout California, the joinder of whom in one action is impracticable, and the disposition of whose claims in a class action will provide substantial benefits to both the parties and the Court.

12. There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. The questions of law and fact common to the Class predominate over questions that may affect individual class members, including but not limited to the following:

- (a) whether ADECCO implemented and engaged in a systematic practice whereby it unlawfully failed to provide hourly employees meal period

breaks and failed to pay employees for the lack of meal breaks as required by law;

(b) whether ADECCO implemented and engaged in a systematic practice whereby it failed to provide accurate itemized statements to California hourly employees;

(c) whether the systematic acts and practices of ADECCO as alleged herein violated, inter alia, applicable provisions of the California Labor Code, including but not limited to, Sections 226, 226.7, 512, and 2698, and applicable Industrial Welfare Commission Orders, and California Business & Professions Code § 17200, et seq.

13. Because Plaintiff worked on a daily and weekly basis, routinely worked through meal breaks as depicted on ADECCO records for which Plaintiff was not properly compensated and failed to receive timely and accurate itemized statements, Plaintiff is asserting claims that are typical of the claims of the Class.

14. Plaintiff will fairly and adequately represent and protect the interests of the Class in that he has no disabling conflict of interest that would be antagonistic to those of the other members of the Class. Plaintiff has retained counsel who are competent and experienced in the prosecution of class action wage and hour violations.

15. Because Plaintiff and the members of the Class have all similarly suffered irreparable harm and damages as a result of ADECCO's unlawful and continuously wrongful conduct, including but not limited to ADECCO's systematic failure to provide for meal period breaks, and systematic failure to pay for meal break periods worked, class treatment is especially appropriate. Because the hours worked and employment circumstances by ADECCO employees and class members follow common patterns, all of which are reflected in the records possessed by ADECCO, this action will provide substantial benefits to both. Absent this action, ADECCO's unlawful conduct will continue unremedied and uncorrected.

FIRST CAUSE OF ACTION

**(Failure To Provide Meal Period Breaks And Accurate Wage
Statements Pursuant To California Labor Code Sections 226, 226.7, 512)**

16. Plaintiff Goldsby incorporates by reference the allegations contained in paragraphs 1-15 of this Complaint as if fully set forth herein.

17. During all relevant periods, Defendant illegally and unlawfully required Plaintiff Goldsby and class members to work through meal period breaks.

18. During all relevant periods, both the California Labor Code and the pertinent wage orders required that Plaintiff Goldsby and class members be compensated for the absence of meal period breaks. ADECCO failed to compensate Plaintiff and class members for the lack of meal periods as required by law. Plaintiff and class members are entitled to recover their unpaid compensation arising there from.

19. By unlawfully requiring Plaintiff and class members to work without meal breaks and in failing to properly compensate Plaintiff and class members for the lack of meal periods as alleged herein, ADECCO acted in willful, oppressive and conscious disregard of Plaintiff and class members' statutory and regulatory right to meal periods and compensation.

20. Plaintiff and the other members of the class are therefore entitled to the relief requested below.

SECOND CAUSE OF ACTION

**(Unlawful, Unfair And Fraudulent Business Practices Pursuant
To Business & Professions Code Sections 17200, et seq.)**

21. Plaintiff and class members incorporate by reference the allegations contained in paragraphs 1-20 of this Complaint as if fully set forth herein.

22. Business & Professions Code section 17200, et seq. prohibits acts of unfair competition, which shall mean and include any "unlawful business act or practice."

23. The policies, acts and practices heretofore described were and are an unlawful business act or practice because ADECCO's failure to provide meal period breaks, failure to pay

1 compensation for work without meal period breaks, failure to provide accurate and timely
 2 itemized statements violates applicable Labor Code sections, including but not limited to
 3 California Labor Code §§ 226, 226.7, and 512, applicable Industrial Welfare Commission Wage
 4 Orders, the Labor Code Private Attorney General Act of 2004, Labor Code Section 2698 et. seq.,
 5 and other provisions of California common and/or statutory law. Plaintiff reserves the right to
 6 allege additional statutory and common law violations by Defendants. Such conduct is ongoing to
 7 this date.

8 24. Business & Professions Code §17200, et seq. also prohibits acts of unfair
 9 competition, which shall mean and include any "unfair business act or practice."

10 25. The policies, acts or practices described herein were and are an unfair business act
 11 or practice because any justifications for ADECCO's illegal and wrongful conduct were and are
 12 vastly outweighed by the harm such conduct caused Plaintiff, class members, and the members of
 13 the general public. Such conduct is ongoing to this date.

14 26. Plaintiff and the other members of the Class are therefore entitled to the relief
 15 requested below.

16 **PRAYER FOR RELIEF**

17 WHEREFORE Plaintiff prays for judgment and relief as follows:

- 18 1. An order certifying that the action may be maintained as a class action;
- 19 2. Compensatory and statutory damages, penalties and restitution, as appropriate and
 20 available under each cause of action, in an amount to be proven at trial based on, inter alia, the
 21 unpaid balance of compensation Defendant owes;
- 22 3. For punitive damages as appropriate and available under each cause of action;
- 23 4. An order enjoining Defendant from pursuing the policies, acts, and practices
 24 complained of herein;
- 25 5. Costs of this suit;
- 26 6. Pre- and post-judgment interest; and
- 27 7. Such other and further relief as the Court deems just and proper.
- 28

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Date: July 26, 2007

QUALLS & WORKMAN, L.L.P.

By: 

Daniel H. Qualls
Attorney for Plaintiff

EXHIBIT B.

1 Pursuant to California Code of Civil Procedure Section 2030.010, Plaintiff, Shavotnae
2 Goldsby ("GOLDSBY") hereby requests that Defendant Adecco, Inc. ("ADECCO") answer in
3 writing and under oath the following specially prepared interrogatories:

4
5 **SPECIAL INTERROGATORY NO.1:**

6 Identify the name, address, e-mail address AND telephone number of all persons employed
7 by YOU in California July 26, 2003, AND the present paid on an hourly basis for whom
8 ADECCO records depict a meal period not taken. (The terms "YOU," "YOUR" or "YOURS"
9 refer to ADECCO and, if applicable, the agents, employees, officers, and directors of same or of
10 any subsidiary or divisions thereof, and their attorneys and those persons employed by their
11 attorneys.) (As used herein, the term "ALL" is synonymous with "ANY" and the term "OR"
12 means "AND/OR.")

13 **SPECIAL INTERROGATORY NO.2:**

14 Identify the period of employment for each person identified in response to Special
15 Interrogatory No. 1.

16 **SPECIAL INTERROGATORY NO.3:**

17 Identify the number of persons employed by YOU in California between July 26, 2003,
18 AND the present paid on an hourly basis for whom ADECCO records depict a meal period
19 not taken.

20 **SPECIAL INTERROGATORY NO. 4:**

21 Identify ALL persons employed by YOU in California paid on an hourly basis between
22 July 26, 2003, AND the present who complained to YOU REGARDING the absence of meal
23 period breaks. (As used herein, the term "REGARDING" means relating to, referring to,
24 pertaining to, reflecting, substantiating, evidencing, constituting, or in any manner whatsoever
25 logically or factually connected with the matter referenced, whether in whole or in part.)

26 ///

27 ///

28 ///

1 **SPECIAL INTERROGATORY NO. 5:**

2 Identify the number of persons employed by **YOU** in California between July 26, 2003 and
3 the present, paid on an hourly basis.

4
5 August 27, 2007

QUALLS & WORKMAN, LLP

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9 Daniel H. Qualls
10 Attorney For Plaintiff
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ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME AND ADDRESS) QUALLS & WORKMAN, LLP 244 CALIFORNIA STREET, SUITE #410 SAN FRANCISCO, CA 94111		TELEPHONE NO. (415) 782-3660	FOR COURT USE ONLY	
ATTORNEY FOR (NAME) SHAVOTNAE GOLDSBY, ET AL		REFERENCE NUMBER 0V238571-01		
Insert name of court, judicial district or branch court, if any, and post office and street address SUPERIOR COURT OF CALIFORNIA, OAKLAND DIVISION 600 WASHINGTON STREET OAKLAND, CA 94607				
SHORT NAME OF CASE SHAVOTNAE GOLDSBY, ET AL vs. ADECCO, INC.				
PROOF OF SERVICE	DATE:	TIME:	DEPT/DIV:	CASE NUMBER: RG07337683

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action:

I served the:

PLAINTIFF SHAVOTNAE GOLDSBY'S FIRST SET OF INSPECTION DEMANDS TO
DEFENDANT ADECCO, INC.; PLAINTIFF SHAVOTNAE GOLDSBY'S FIRST SET OF
SPECIAL INTERROGATORIES TO DEFENDANT ADECCO, INC.

Name: ADECCO, INC.

Person Served: MARGARET WILSON, CT CORP
Title: AGENT FOR SERVICE OF PROCESS

Date of Delivery: 09/04/07
Time of Delivery: 02:25 pm

Place of Service: 818 WEST SEVENTH ST.
LOS ANGELES, CA 90017 (Business)

Manner of Service: Personal Service - By Personally Delivering Copies.

Fee for service: \$ 51.13

JUDICIAL COUNSEL FORM, RULE #982 (A)(23)

☒ Registered: . . . LOS ANGELES . . . County,
Number: . . . 5403 . . .



Attorney's Diversified Services
ATTORNEY'S DIVERSIFIED SERVICES
Fax (805) 658-6336 *sent file # 3153.00*

302/0V238571-01

PROOF OF SERVICE

I declare under penalty of perjury that the foregoing is true and correct
and that this declaration was executed

on: . . . 09/12/07 . . .
at: . . . Ventura . . . , California.

Signature:

Name: KEN MELENDEZ

Title: REGISTERED CALIFORNIA PROCESS SERVER

EXHIBIT C.

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
2 Including Professional Corporations
CHARLES F. BARKER, Cal. Bar No. 70076
3 ROSS A. BOUGHTON, Cal. Bar No. 241119
333 South Hope Street, 48th Floor
4 Los Angeles, California 90071-1448
Telephone: 213-620-1780
5 Facsimile: 213-620-1398

6 Attorneys for Defendant
ADECCO, INC.
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF ALAMEDA
10

11 SHAVOTNAE GOLDSBY, AND ALL
OTHERS SIMILARLY SITUATED,

12 Plaintiff,
13

14 v.
15

ADECCO, INC., and DOES 1 through
100, inclusive,,
16

Defendants.
17

Case No. RG 07337683

DEFENDANT ADECCO, INC.'S
RESPONSES TO PLAINTIFF
SHAVOTNAE GOLDSBY'S FIRST SET
OF SPECIAL INTERROGATORIES

[Complaint Filed: July 26, 2007]

18 PROPOUNDING PARTY: PLAINTIFF SHAVOTNAE GOLDSBY

19 RESPONDING PARTY: DEFENDANT ADECCO, INC.

20 SET NO.: ONE

21 NUMBERS: 1-5
22
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1 Defendant Adecco, Inc. ("Adecco" or "Defendant") hereby objects and
2 otherwise responds to the Plaintiff's Special Interrogatories, propounded by Plaintiff
3 Shavotnae Goldsby (hereinafter "Plaintiff") as follows:
4

5 PRELIMINARY STATEMENT

6 These responses are made solely for the purpose of this action. All
7 objections and grounds are reserved and may be interposed at any time before or at the
8 time of trial.
9

10 Defendant has not yet completed its investigation of the facts relating to this
11 action, its discovery in this action, or its preparations for the defense of this action.
12 Consequently, these responses are given without prejudice to the right of responding party
13 to produce at or before the time of trial any and all subsequently discovered evidence
14 relating to the proof of presently known material facts, and to the proof of subsequently
15 discovered material facts.
16

17 This preliminary statement is incorporated herein by reference to each of the
18 responses below as if stated in full.
19

20 GENERAL OBJECTIONS

21 To the extent that these interrogatories seek information privileged against
22 disclosure by the attorney-client privilege and/or the attorney work-product doctrine or the
23 right to privacy of any third party, Defendant objects to these interrogatories on these
24 grounds.
25

26 RESERVATION OF RIGHT TO SUPPLEMENT OR MODIFY RESPONSES

27 Defendant reserves the right to supplement, modify or correct its responses
28 to these interrogatories, or any part of them, as Defendant acquires additional information

1 in the course of its investigation and discovery in this action. Defendant does not
2 undertake any duty to supplement these responses other than what is required by the Code
3 of Civil Procedure.

4
5 **RESPONSES TO SPECIAL INTERROGATORIES**

6 **SPECIAL INTERROGATORY NO. 1:**

7 Identify the name, address, e-mail address AND telephone number of all
8 persons employed by YOU in California July 26,2003, AND the present paid on an hourly
9 basis for whom ADECCO records depict a meal period not taken. (The terms 'YOU,'
10 "YOUR" or "YOURS" refer to ADECCO and, if applicable, the agents, employees,
11 officers, and directors of same or of any subsidiary or divisions thereof, and their attorneys
12 and those persons employed by their attorneys). (As used herein, the term "ALL" is
13 synonymous with ANY and the term 'OR' means 'AND/OR.'")

14
15 **RESPONSE TO SPECIAL INTERROGATORY NO. 1:**

16 Defendant objects to this interrogatory on the grounds that it seeks
17 information which is not relevant to the subject matter involved in the pending action, and
18 which is not reasonably calculated to lead to the discovery of admissible evidence; that it is
19 overbroad, burdensome, and oppressive; that it calls for information that is protected by
20 the right of privacy; that it is compound; that it is vague and ambiguous in that it cannot be
21 ascertained what is meant by the phrase "depict a meal period not taken;" and that it is
22 premature in that it seeks information concerning potential class members prior to class
23 certification.

24
25 Defendant further objects to this interrogatory on the grounds that it
26 improperly seeks information pertaining to liability and damages. This case is presently in
27 the pre-certification discovery phase. Questions pertaining to liability and damages issues
28 are unduly oppressive, harassing, and burdensome. Plaintiff will have the opportunity to

1 propound discovery on liability and damages issues if the proposes classes are certified.
2 However, if Defendant is subjected to such discovery prior to class certification, it will be
3 forced to incur the burdens of a collective action before it has been determined by the
4 Court that it is appropriate to proceed by way of a collective action.

5
6 **SPECIAL INTERROGATORY NO. 2:**

7 Identify the period of employment for each person identified in response to
8 Special Interrogatory No. 1.

9
10 **RESPONSE TO SPECIAL INTERROGATORY NO. 2:**

11 Defendant objects to this interrogatory on the grounds that it seeks
12 information which is not relevant to the subject matter involved in the pending action, and
13 which is not reasonably calculated to lead to the discovery of admissible evidence; that it is
14 overbroad, burdensome, and oppressive; that it calls for information that is protected by
15 the right of privacy; that it is compound; that it is vague and ambiguous in that it cannot be
16 ascertained what is meant by the phrase "period of employment;" and that it is premature
17 in that it seeks information concerning potential class members prior to class certification.

18
19 Defendant further objects to this interrogatory on the grounds that it
20 improperly seeks information pertaining to liability and damages. This case is presently in
21 the pre-certification discovery phase. Questions pertaining to liability and damages issues
22 are unduly oppressive, harassing, and burdensome. Plaintiff will have the opportunity to
23 propound discovery on liability and damages issues if the proposes classes are certified.
24 However, if Defendant is subjected to such discovery prior to class certification, it will be
25 forced to incur the burdens of a collective action before it has been determined by the
26 Court that it is appropriate to proceed by way of a collective action.

1 **SPECIAL INTERROGATORY NO. 3:**

2 Identify the number of persons employed by YOU in California between
3 July 26, 2003, AND the present paid on an hourly basis for whom ADECCO records
4 depict a meal period not taken.
5

6 **RESPONSE TO SPECIAL INTERROGATORY NO. 3:**

7 Defendant objects to this interrogatory on the grounds that it seeks
8 information which is not relevant to the subject matter involved in the pending action, and
9 which is not reasonably calculated to lead to the discovery of admissible evidence; that it is
10 overbroad, burdensome, and oppressive; that it is vague and ambiguous in that it cannot be
11 ascertained what is meant by the phrase "period of employment;" and that it is premature
12 in that it seeks information concerning potential class members prior to class certification.
13

14 Defendant further objects to this interrogatory on the grounds that it
15 improperly seeks information pertaining to liability and damages. This case is presently in
16 the pre-certification discovery phase. Questions pertaining to liability and damages issues
17 are unduly oppressive, harassing, and burdensome. Plaintiff will have the opportunity to
18 propound discovery on liability and damages issues if the proposes classes are certified.
19 However, if Defendant is subjected to such discovery prior to class certification, it will be
20 forced to incur the burdens of a collective action before it has been determined by the
21 Court that it is appropriate to proceed by way of a collective action.
22

23 Subject to and without waiving these objections, Defendant responds as
24 follows: During a typical month, Adecco has approximately 10,000 employees that are
25 assigned to work for Adecco's clients in California.
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1 **SPECIAL INTERROGATORY NO. 4:**

2 Identify ALL persons employed by YOU in California paid on an hourly
3 basis between July 26, 2003, AND the present who complained to YOU REGARDING
4 the absence of meal period breaks. (As used herein, the term "REGARDING" means
5 relating to, referring to, pertaining to, reflecting, substantiating, evidencing, constituting, or
6 in any manner whatsoever logically or factually connected with the matter referenced,
7 whether in whole or in part.)
8

9 **RESPONSE TO SPECIAL INTERROGATORY NO. 4:**

10 Defendant objects to this interrogatory on the grounds that it seeks
11 information which is not relevant to the subject matter involved in the pending action, and
12 which is not reasonably calculated to lead to the discovery of admissible evidence; that it is
13 overbroad, burdensome, and oppressive; that it calls for information that is protected by
14 the right of privacy; that it is vague and ambiguous in that it cannot be ascertained what is
15 meant by the term "complained" and the phrase "absence of meal breaks;" and that it is
16 premature in that it seeks information concerning potential class members prior to class
17 certification.
18

19 Defendant further objects to this interrogatory on the grounds that it
20 improperly seeks information pertaining to liability and damages. This case is presently in
21 the pre-certification discovery phase. Questions pertaining to liability and damages issues
22 are unduly oppressive, harassing, and burdensome. Plaintiff will have the opportunity to
23 propound discovery on liability and damages issues if the proposes classes are certified.
24 However, if Defendant is subjected to such discovery prior to class certification, it will be
25 forced to incur the burdens of a collective action before it has been determined by the
26 Court that it is appropriate to proceed by way of a collective action.
27
28

1 **SPECIAL INTERROGATORY NO. 5:**

2 Identify the number of persons employed by YOU in California between
3 July 26,2003 and the present, paid on an hourly basis.
4

5 **RESPONSE TO SPECIAL INTERROGATORY NO. 5:**

6 Defendant objects to this interrogatory on the grounds that it seeks
7 information which is not relevant to the subject matter involved in the pending action, and
8 which is not reasonably calculated to lead to the discovery of admissible evidence; that it is
9 overbroad, burdensome, and oppressive; that it is vague and ambiguous in that it cannot be
10 ascertained what is meant by the phrase "employed by YOU;" and that it is premature in
11 that it seeks information concerning potential class members prior to class certification.
12

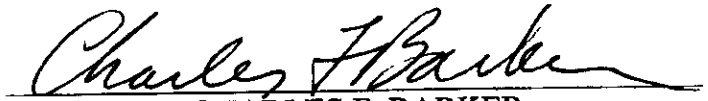
13 Defendant further objects to this interrogatory on the grounds that it
14 improperly seeks information pertaining to liability and damages. This case is presently in
15 the pre-certification discovery phase. Questions pertaining to liability and damages issues
16 are unduly oppressive, harassing, and burdensome. Plaintiff will have the opportunity to
17 propound discovery on liability and damages issues if the proposes classes are certified.
18 However, if Defendant is subjected to such discovery prior to class certification, it will be
19 forced to incur the burdens of a collective action before it has been determined by the
20 Court that it is appropriate to proceed by way of a collective action.
21

22 Subject to and without waiving these objections, Defendant responds as
23 follows: During a typical month, Adecco has approximately 10,000 employees that are
24 assigned to work for Adecco's clients in California.
25
26
27
28

1 Dated: October 3, 2007

2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

3
4 By



5 CHARLES F. BARKER
6 ROSS A. BOUGHTON
7 Attorneys for Defendant
8 ADECCO, INC.
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 333 South Hope Street, 48th Floor, Los Angeles, California 90071-1448.

On November 1, 2007, I served the following document(s) described as **DEFENDANT ADECCO, INC.'S RESPONSES TO PLAINTIFF SHAVOTNAE GOLDSBY'S FIRST SET OF SPECIAL INTERROGATORIES** on the interested party(ies) in this action by placing true copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

SEE ATTACHED LIST

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT DELIVERY:** I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight service carrier.


☐ **BY FACSIMILE:** I served said document(s) to be transmitted by facsimile pursuant to Rule 2.306 of the California Rules of Court. The telephone number of the sending facsimile machine was 213-620-1398. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The sending facsimile machine (or the machine used to forward the facsimile) issued a transmission report confirming that the transmission was complete and without error. Pursuant to Rule 2.306(g)(4), a copy of that report is attached to this declaration.

☐ **BY HAND DELIVERY:** I caused such envelope(s) to be delivered by hand to the office of the addressee(s).

☒ **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 1, 2007, at Los Angeles, California.



Yvette G. Abrahamian

1 David Sanford, Esquire
Meenoo Chahbazi, Esquire
2 Sanford, Wittels & Heisler, LLP
1666 Connecticut Avenue, N.W., Suite 310
3 Washington, D.C. 20009

202-742-7780
FAX: 202-742-7776

4 Grant Morris, Esquire
Law Offices of Grant E. Morris
5 1666 Connecticut Avenue, N.W., Suite 310
Washington, D.C. 20009

202-742-7783
FAX: 202-742-7776

6 Daniel H. Qualls, Esquire
7 Robin G. Workman, Esquire
Qualls & Workman, LLP
8 244 California Street, Suite 410
San Francisco, California 94111

415-782-3660
FAX: 415-788-1028

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EXHIBIT D.

1 David Sanford, D.C. Bar No. 457933
Meenoo Chahbazi, CA Bar No. 233985
2 **SANFORD, WITTELS & HEISLER, LLP**
1666 Connecticut Avenue, N.W., Suite 310
3 Washington, D.C. 20009
Telephone: (202) 742-7780
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7 Telephone: (202) 742-7783
Facsimile: (202) 742-7776

8 Daniel H. Qualls, Bar No. 109036
9 Robin G. Workman, Bar No. 145810
QUALLS & WORKMAN, LLP
10 244 California Street, Suite 410
San Francisco, CA 94111
11 Telephone: (415) 782-3660
Facsimile: (415) 788-1028

12 *Attorneys for Plaintiff*
13
14
15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 FOR THE COUNTY OF ALAMEDA
18

19 SHAVOTNAE GOLDSBY, AND ALL OTHERS
20 SIMILARLY SITUATED,

21 Plaintiff,

22 vs.

23 ADECCO, INC, and DOES 1 through 100, inclusive,
24 Defendants.
25

No. RG07337683

26 **NOTICE OF TAKING DEPOSITION**
27 **OF PERSON MOST**
28 **KNOWLEDGEABLE REGARDING**
MEAL PERIOD BREAK POLICY
AND REQUEST FOR PRODUCTION
OF DOCUMENTS

TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:

1 YOU ARE HEREBY NOTIFIED that, pursuant to Code of Civil Procedure section
2 2025(d) (6), Plaintiff SHAVOTNAE GOLDSBY will take the deposition of ADECCO, INC.
3 ("deponent") who shall designate and produce at the deposition those of its officers, directors,
4 managing agents, employees or agents who are most qualified to testify on its behalf, to the extent
5 of any information known or reasonably available to the deponent regarding ADECCO, INC.'S
6 meal period break policy as applied to California hourly employees between July 26, 2003, and
7 the present. The deposition will commence on September 25, 2007 at 3:00 p.m. at the law firm of
8 Qualls & Workman, LLP, 244 California Street, Suite 410, San Francisco, CA, upon examination
9 before a notary public duly authorized to administer oaths. Said deposition to continue from day
10 to day until completed, Saturdays, Sundays and holidays excepted. The deposing party intends to
11 record the proceedings by stenographic method, through the instant visual display of the testimony
12 and/or videotape recording.

13 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil Procedure
14 sections 2025(d) and 2025(h), in addition to attending, at the time and on the date specified, the
15 deponent will be required to bring and produce at or before said time and place, the documents and
16 things listed below which are in the deponent's possession, custody or control, or are in the
17 possession, custody or control of the deponent's officers, directors, agents, employees or attorneys.

18 INSTRUCTIONS

19 1. This request requires you to produce all documents that are in your actual or
20 constructive possession, custody or control or that are in the possession, custody or control of your
21 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
22 your behalf.

23 2. If any requested document was, but is no longer in your possession, you must
24 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
25 such identification should, for each such document, set forth whether the document (i) has been
26 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your
27 possession, custody, or control, in which case the name and address of any person or entity known

1 or believed by you to have possession, custody, or control of that document or category of
2 documents should be identified. In each such instance, explain the circumstances surrounding the
3 disposition and state the date or approximate date of such disposition and the identity of all
4 persons who you believe to have knowledge of such disposition.

5 3. If you withhold any of the requested documents from production under a claim of
6 privilege or other protection, you must serve the undersigned a list of such withheld documents
7 indicating, for each document withheld, the following information: (i) the date composed or date
8 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
9 made; (v) the identity of all persons or entities who saw the original document or saw or received a
10 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
11 basis for the claim of privilege.

12 4. This request requires the production of documents either in the same form or in the
13 same order as they are kept in the usual course of business or organized and labeled to correspond
14 with the particular demands set forth below. If you choose the former method, the documents are
15 to be produced in the boxes, file folders, bindings or other containers in which the documents are
16 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
17 containers are to be left intact.

18 **I. DEFINITIONS**

19 Unless specifically indicated otherwise, the following definitions are applicable throughout
20 this notice (including this Definitions section) and are incorporated by reference into each specific
21 request. The definitions are limited, if at all, only to the extent necessary to avoid a nonsensical
22 meaning of any request.

23 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
24 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
25 directors, employees, representatives, and agents, and any person acting or purporting to act on
26 behalf of any of the foregoing.

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1 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
2 should be understood to include and encompass "AND"; and "AND" should be understood to
3 include and encompass "OR".

4 C. The terms "DOCUMENT" or "DOCUMENTS" shall mean any tangible thing upon
5 which any expression, communication or representation has been recorded by any means including,
6 but not limited to, "COMPUTER RECORDS," "E-MAIL RECORDS," handwriting, typewriting,
7 printing, photostating, photographing, audiotaping, videotaping, magnetic impulse, or mechanical or
8 electronic recording and any nonidentical copies (whether different from the original because of notes
9 made on such copies, because of indications that said copies were sent to different individuals than
10 were the originals, or because of any other reason), including but not limited to working papers,
11 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
12 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
13 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
14 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
15 and all other writings and recordings of every kind that are in your actual or constructive possession,
16 custody or control.

17 D. "COMPUTER RECORDS" shall mean any tangible thing upon which any
18 expression, communication or representation has been recorded by any means including, but not
19 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
20 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
21 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
22 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
23 means of electronic recording and any nonidentical copies (whether different from the original
24 because of notes made on such copies, because of indications that said copies were sent to different
25 individuals than were the originals, or because of any other reason), including but not limited to
26 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,
27 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,

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1 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
2 and all other writings and recordings of every kind that are in your actual or constructive possession,
3 custody or control.

4 E. "E-MAIL RECORDS" shall mean any and all tangible thing upon which any
5 expression, communication or representation has been recorded by any means including, but not
6 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
7 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
8 intraoffice network e-mail, including any copies which may be stored electronically in any manner
9 including, but not limited to, network server storage, backup storage, online server storage,
10 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
11 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
12 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
13 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
14 different from the original because of notes made on such copies, because of indications that said
15 copies were sent to different individuals than were the originals, or because of any other reason),
16 including but not limited to working papers, preliminary, intermediate or final drafts, correspondence,
17 memoranda, charts, notes, scripts, records of any sort of meetings, invoices, financial statements,
18 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
19 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
20 your actual or constructive possession, custody or control.

21 F. As used herein, the term "REGARDING" means relating to, referring to, pertaining to,
22 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
23 factually connected with the matter referenced, whether in whole or in part.

24 **DOCUMENTS REQUESTED TO BE PRODUCED**

25 The following sets forth the documents to be produced at the above-noticed deposition by
26 the deponent. The deponent should produce all documents responsive to this request within the
27 possession, custody or control of deponent at the deposition.

28

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR meal period break policies for California hourly employees in effect between July 26, 2003, AND the present.

Date: September 7, 2007

QUALLS & WORKMAN, L.L.P.

By: 

Daniel H. Qualls
Attorney for Plaintiff

1 David Sanford, D.C. Bar No. 457933
2 Meenoo Chahbazi, CA Bar No. 233985
3 **SANFORD, WITTELS & HEISLER, LLP**
4 1666 Connecticut Avenue, N.W., Suite 310
5 Washington, D.C. 20009
6 Telephone: (202) 742-7780
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21 *Attorneys for Plaintiff*

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SHAVOTNAE GOLDSBY, AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

ADECCO, INC, and DOES 1 through 100, inclusive,
Defendants.

No. RG07337683

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OF PERSON MOST
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1 ("deponent") who shall designate and produce at the deposition those of its officers, directors,
2 managing agents, employees or agents who are most qualified to testify on its behalf, to the extent
3 of any information known or reasonably available to the deponent regarding ADECCO, INC.'S
4 meal period breaks record keeping practices and procedures applied to California employees
5 between July 26, 2003, and the present. The deposition will commence on September 25, 2007 at
6 9:30 a.m., at the law firm of Qualls & Workman, LLP, 244 California Street, Suite 410, San
7 Francisco, CA, upon examination before a notary public duly authorized to administer oaths. Said
8 deposition to continue from day to day until completed, Saturdays, Sundays and holidays
9 excepted. The deposing party intends to record the proceedings by stenographic method, through
10 the instant visual display of the testimony and/or videotape recording.

11 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil Procedure
12 sections 2025(d) and 2025(h), in addition to attending, at the time and on the date specified, the
13 deponent will be required to bring and produce at or before said time and place, the documents and
14 things listed below which are in the deponent's possession, custody or control, or are in the
15 possession, custody or control of the deponent's officers, directors, agents, employees or attorneys.

16 **INSTRUCTIONS**

17 1. This request requires you to produce all documents that are in your actual or
18 constructive possession, custody or control or that are in the possession, custody or control of your
19 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
20 your behalf.

21 2. If any requested document was, but is no longer in your possession, you must
22 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
23 such identification should, for each such document, set forth whether the document (i) has been
24 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your
25 possession, custody, or control, in which case the name and address of any person or entity known
26 or believed by you to have possession, custody, or control of that document or category of
27 documents should be identified. In each such instance, explain the circumstances surrounding the
28

1 disposition and state the date or approximate date of such disposition and the identity of all
2 persons who you believe to have knowledge of such disposition.

3 3. If you withhold any of the requested documents from production under a claim of
4 privilege or other protection, you must serve the undersigned a list of such withheld documents
5 indicating, for each document withheld, the following information: (i) the date composed or date
6 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
7 made; (v) the identity of all persons or entities who saw the original document or saw or received a
8 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
9 basis for the claim of privilege.

10 4. This request requires the production of documents either in the same form or in the
11 same order as they are kept in the usual course of business or organized and labeled to correspond
12 with the particular demands set forth below. If you choose the former method, the documents are
13 to be produced in the boxes, file folders, bindings or other containers in which the documents are
14 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
15 containers are to be left intact.

16 **I. DEFINITIONS**

17 Unless specifically indicated otherwise, the following definitions are applicable throughout
18 this notice (including this Definitions section) and are incorporated by reference into each specific
19 request. The definitions are limited, if at all, only to the extent necessary to avoid a nonsensical
20 meaning of any request.

21 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
22 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
23 directors, employees, representatives, and agents, and any person acting or purporting to act on
24 behalf of any of the foregoing.

25 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
26 should be understood to include and encompass "AND"; and "AND" should be understood to
27 include and encompass "OR".
28

1 C. The terms "**DOCUMENT**" or "**DOCUMENTS**" shall mean any tangible thing upon
2 which any expression, communication or representation has been recorded by any means including,
3 but not limited to, "**COMPUTER RECORDS**," "**E-MAIL RECORDS**," handwriting, typewriting,
4 printing, photostating, photographing, audiotaping, videotaping, magnetic impulse, or mechanical or
5 electronic recording and any nonidentical copies (whether different from the original because of notes
6 made on such copies, because of indications that said copies were sent to different individuals than
7 were the originals, or because of any other reason), including but not limited to working papers,
8 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
9 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
10 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
11 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
12 and all other writings and recordings of every kind that are in your actual or constructive possession,
13 custody or control.

14 D. "**COMPUTER RECORDS**" shall mean any tangible thing upon which any
15 expression, communication or representation has been recorded by any means including, but not
16 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
17 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
18 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
19 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
20 means of electronic recording and any nonidentical copies (whether different from the original
21 because of notes made on such copies, because of indications that said copies were sent to different
22 individuals than were the originals, or because of any other reason), including but not limited to
23 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,
24 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,
25 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
26 and all other writings and recordings of every kind that are in your actual or constructive possession,
27 custody or control.

28

1 E. **"E-MAIL RECORDS"** shall mean any and all tangible thing upon which any
 2 expression, communication or representation has been recorded by any means including, but not
 3 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
 4 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
 5 intraoffice network e-mail, including any copies which may be stored electronically in any manner
 6 including, but not limited to, network server storage, backup storage, online server storage,
 7 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
 8 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
 9 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
 10 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
 11 different from the original because of notes made on such copies, because of indications that said
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 13 including but not limited to working papers, preliminary, intermediate or final drafts, correspondence,
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 15 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
 16 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
 17 your actual or constructive possession, custody or control.

18 F. As used herein, the term **"REGARDING"** means relating to, referring to, pertaining to,
 19 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
 20 factually connected with the matter referenced, whether in whole or in part.

21 **DOCUMENTS REQUESTED TO BE PRODUCED**

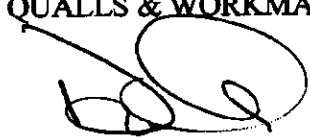
22 The following sets forth the documents to be produced at the above-noticed deposition by
 23 the deponent. The deponent should produce all documents responsive to this request within the
 24 possession, custody or control of deponent at the deposition.

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR meal period breaks record keeping practices and procedures applied to California employees between July 26, 2003 and the present.

Date: September 7, 2007

QUALLS & WORKMAN, L.L.P.



Daniel H. Qualls
Attorney for Plaintiff

1 David Sanford, D.C. Bar No. 457933
2 Meenoo Chahbazi, CA Bar No. 233985
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4 1666 Connecticut Avenue, N.W., Suite 310
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8 Daniel H. Qualls, Bar No. 109036
9 Robin G. Workman, Bar No. 145810
10 **QUALLS & WORKMAN, LLP**
11 244 California Street, Suite 410
San Francisco, CA 94111
Telephone: (415) 782-3660
Facsimile: (415) 788-1028

12 *Attorneys for Plaintiff*

13
14
15
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 FOR THE COUNTY OF ALAMEDA

18
19 SHAVOTNAE GOLDSBY, AND ALL OTHERS
20 SIMILARLY SITUATED,
21 Plaintiff,
22 vs.
23 ADECCO, INC, and DOES 1 through 100, inclusive,
24 Defendants.

No. RG07337683

NOTICE OF TAKING DEPOSITION
OF PERSON MOST
KNOWLEDGEABLE REGARDING
PAYMENT OF COMPENSATION,
AND REQUEST FOR PRODUCTION
OF DOCUMENTS

25
26 TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:
27
28

1 YOU ARE HEREBY NOTIFIED that, pursuant to Code of Civil Procedure section
2 2025(d) (6), Plaintiff SHAVOTNAE GOLDSBY will take the deposition of ADECCO, INC.
3 ("deponent") who shall designate and produce at the deposition those of its officers, directors,
4 managing agents, employees or agents who are most qualified to testify on its behalf, to the extent
5 of any information known or reasonably available to the deponent regarding ADECCO, INC.'S
6 practice or policy regarding payment of compensation as prescribed by California Labor Code
7 Section 226.7 for missed rest and/or meal period breaks, as applied to California employees
8 between July 26, 2003, and the present. The deposition will commence on September 25, 2007 at
9 11:00 a.m., at the law firm of Qualls & Workman, LLP, 244 California Street, Suite 410, San
10 Francisco, CA, upon examination before a notary public duly authorized to administer oaths. Said
11 deposition to continue from day to day until completed, Saturdays, Sundays and holidays
12 excepted. The deposing party intends to record the proceedings by stenographic method, through
13 the instant visual display of the testimony and/or videotape recording.

14 PLEASE TAKE FURTHER NOTICE that pursuant to California Code of Civil Procedure
15 sections 2025(d) and 2025(h), in addition to attending, at the time and on the date specified, the
16 deponent will be required to bring and produce at or before said time and place, the documents and
17 things listed below which are in the deponent's possession, custody or control, or are in the
18 possession, custody or control of the deponent's officers, directors, agents, employees or attorneys.

19 INSTRUCTIONS

20 1. This request requires you to produce all documents that are in your actual or
21 constructive possession, custody or control or that are in the possession, custody or control of your
22 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
23 your behalf.

24 2. If any requested document was, but is no longer in your possession, you must
25 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
26 such identification should, for each such document, set forth whether the document (i) has been
27 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your
28

1 possession, custody, or control, in which case the name and address of any person or entity known
2 or believed by you to have possession, custody, or control of that document or category of
3 documents should be identified. In each such instance, explain the circumstances surrounding the
4 disposition and state the date or approximate date of such disposition and the identity of all
5 persons who you believe to have knowledge of such disposition.

6 3. If you withhold any of the requested documents from production under a claim of
7 privilege or other protection, you must serve the undersigned a list of such withheld documents
8 indicating, for each document withheld, the following information: (i) the date composed or date
9 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
10 made; (v) the identity of all persons or entities who saw the original document or saw or received a
11 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
12 basis for the claim of privilege.

13 4. This request requires the production of documents either in the same form or in the
14 same order as they are kept in the usual course of business or organized and labeled to correspond
15 with the particular demands set forth below. If you choose the former method, the documents are
16 to be produced in the boxes, file folders, bindings or other containers in which the documents are
17 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
18 containers are to be left intact.

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24 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
25 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
26 directors, employees, representatives, and agents, and any person acting or purporting to act on
27 behalf of any of the foregoing.

28

1 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
2 should be understood to include and encompass "AND"; and "AND" should be understood to
3 include and encompass "OR".

4 C. The terms "DOCUMENT" or "DOCUMENTS" shall mean any tangible thing upon
5 which any expression, communication or representation has been recorded by any means including,
6 but not limited to, "COMPUTER RECORDS," "E-MAIL RECORDS," handwriting, typewriting,
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11 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
12 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
13 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
14 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
15 and all other writings and recordings of every kind that are in your actual or constructive possession,
16 custody or control.

17 D. "COMPUTER RECORDS" shall mean any tangible thing upon which any
18 expression, communication or representation has been recorded by any means including, but not
19 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
20 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
21 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
22 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
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27 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,

28

1 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
2 and all other writings and recordings of every kind that are in your actual or constructive possession,
3 custody or control.

4 E. "E-MAIL RECORDS" shall mean any and all tangible thing upon which any
5 expression, communication or representation has been recorded by any means including, but not
6 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
7 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
8 intraoffice network e-mail, including any copies which may be stored electronically in any manner
9 including, but not limited to, network server storage, backup storage, online server storage,
10 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
11 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
12 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
13 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
14 different from the original because of notes made on such copies, because of indications that said
15 copies were sent to different individuals than were the originals, or because of any other reason),
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17 memoranda, charts, notes, scripts, records of any sort of meetings, invoices, financial statements,
18 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
19 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
20 your actual or constructive possession, custody or control.

21 F. As used herein, the term "REGARDING" means relating to, referring to, pertaining to,
22 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
23 factually connected with the matter referenced, whether in whole or in part.

24 **DOCUMENTS REQUESTED TO BE PRODUCED**

25 The following sets forth the documents to be produced at the above-noticed deposition by
26 the deponent. The deponent should produce all documents responsive to this request within the
27 possession, custody or control of deponent at the deposition.

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR practice or policy **REGARDING** payment of compensation prescribed by California Labor Code Section 226.7 for missed rest **AND/OR** meal period breaks as applied to California employees between July 26, 2003 and the present.

Date: September 7, 2007

QUALLS & WORKMAN, L.L.P.



Daniel H. Qualls
Attorney for Plaintiff

EXHIBIT E.

Conform

ORIGINAL
FILED

NOV - 5 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
2 A Limited Liability Partnership
3 Including Professional Corporations
4 CHARLES F. BARKER, Cal. Bar No. 70076
5 ROSS A. BOUGHTON, Cal. Bar No. 241119
333 South Hope Street, 48th Floor
Los Angeles, California 90071-1448
Telephone: 213-620-1780
Facsimile: 213-620-1398

E-filing

6 Attorneys for Defendant
7 ADECCO INC.

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

MMC

10
11 SHAVOTNAE GOLDSBY, AND ALL
12 OTHERS SIMILARLY SITUATED,

13 Plaintiff,

14 v.

15 ADECCO, INC., and DOES 1 through
100, inclusive,,

16 Defendants.

CV 07

5604

DEFENDANT ADECCO INC.'S
NOTICE OF REMOVAL OF
ACTION PURSUANT TO 28 U.S.C.
§§ 1332, 1441, AND 1446

(Filed Concurrently with the
Declarations of Charles F. Barker and
Diana Karabelas)

17 Trial Date: None Set

18
19 TO THE HONORABLE JUDGES OF THE UNITED STATES
20 DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA AND
21 TO PLAINTIFF AND HER ATTORNEYS OF RECORD:
22

23 PLEASE TAKE NOTICE that Defendant Adecco Inc. ("Adecco"), by
24 its undersigned attorneys, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, hereby
25 removes to the United States District Court for the Northern District of California,
26 the action captioned *Shavotnae Goldsby v. Adecco, Inc.*, which is currently pending
27
28

1 in the Superior Court of the State of California for the County of Alameda, as Case
2 No. RG 07337683 (hereinafter the "State Court Action").¹

3
4 **I. THE PARTIES AND THEIR CITIZENSHIP**

5 1. Defendant Adecco is a corporation organized under the laws of
6 the State of Delaware with its principal place of business located in Melville,
7 New York. (Declaration of Diana Karabelas ("Karabelas Decl.") ¶ 4). Thus,
8 Adecco is a citizen of New York and/or Delaware for purposes of diversity
9 jurisdiction, and is not a citizen of California. See 28 U.S.C. § 1332(c). Adecco
10 Inc. operates through an indirect subsidiary Adecco USA, Inc., which also is a
11 corporation organized under the laws of the state of Delaware with its principle place
12 of business in Melville, New York. (Karabelas Decl. ¶ 5).

13
14 2. At the time of Plaintiff Shavotnae Goldsby's ("Plaintiff")
15 employment with Adecco as a temporary employee in 2004 until the filing of this
16 action, Adecco earned the majority of its revenue in states outside of California, and
17 no single state generated an inordinately large proportion of its revenue. In fact,
18 Adecco did business in virtually every state during that time. (Karabelas Decl. ¶ 6).
19 Accordingly, under a "substantial predominance" analysis, no single state conducts
20 the vast majority of Adecco's business activities. See *Industrial Tectonics, Inc. v.*
21 *Aero Alloy*, 912 F.2d 1090, 1094 (9th Cir. 1990).

22
23 3. Under the "nerve center" test, Adecco's principal place of
24 business is New York. See *Tosco Corp. v. Communities for a Better Environment*,
25 236 F.3d 495, 500 (9th Cir. 2001). Adecco's corporate headquarters, where the

26 ¹ Filed herewith as Exhibits A-R to the Declaration of Charles F. Barker are copies of
27 all of the pleadings, processes and orders that have been filed in the State Court
28 Action.

majority of executive and administrative functions are performed, and corporate offices and executives are located in New York. (Karabelas Decl. ¶ 4). Accordingly, Adecco's principal place of business is appropriately New York.

4. Plaintiff was a California employee of Adecco assigned to temporary work for Adecco's clients. At all times relevant to this action she has been a resident of the State of California. (First Amended Complaint ¶¶ 1, 8, Exh. I). Residence is prima facie evidence of domicile. *See State Farm Mut. Auto. Ins. Co. v. Dyer*, 19 F.3d 514, 520 (10th Cir. 1994). Accordingly, Plaintiff is a citizen of the State of California, and she is not a citizen of the State of Delaware or the State of New York for purposes of diversity jurisdiction.

5. The putative plaintiff class members are "persons in the employ of Adecco in California within four years proceeding the filing of this complaint." (First Amended Complaint ¶ 10, Exh. I). At this point in the litigation, it is impossible to determine the distribution of citizenship of the putative class, as the putative class has not been determined. However, as the class is defined to *only* include persons who worked for Adecco in California, it is clear that a vast majority of putative class members are citizens of California. Therefore, Adecco asserts and affirmatively alleges that at least one and probably the vast majority of the members of this putative class are not citizens of the State of Delaware or the State of New York, and are instead citizens of California.

II. REMOVAL JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT ("CAFA")

6. The CAFA amended the diversity jurisdiction statute, 28 U.S.C. § 1332, by adding provisions that give federal courts original jurisdiction in class actions where the following factors are met:

- a. the aggregate amount in controversy exceeds \$5,000,000;
- b. any member of the plaintiff class is a citizen of a State different from any defendant or any member of the plaintiff class is a citizen or subject of a foreign state and any defendant is a citizen of a State ("minimal diversity");
- c. the primary defendants are not states, state officials, or other government entities against whom the district court may be foreclosed from ordering relief; and
- d. the number of members of the plaintiff class is 100 or more.

28 U.S.C. § 1332(d)(2), (d)(5); *see also Hart v. FedEx Ground Package System, Inc.*, 457 F.3d 675, 679 (7th Cir. 2006).

A. Minimal Diversity

7. In the present case, the minimal diversity requirement of the CAFA has been met. As noted above, Adecco is a citizen of Delaware and New York and Plaintiff is a citizen of California and at least one member of plaintiff putative class is a citizen of a state other than New York and Delaware. (*Compare* First Amended Complaint ¶¶ 1, 8, , Exh. I *with* Karabelas Decl. ¶¶ 4-6). Accordingly, the minimal diversity requirement of the CAFA is satisfied. See 28 U.S.C. § 1332(d)(2)(A) & (B).

8. Also in the present case, the Defendant, Adecco, is not a state, state official, or other government entity "against whom the district court may be foreclosed from ordering relief."

B. Class Size

9. With respect to the CAFA requirement of numerosity, Plaintiff's First Amended Complaint asserts that there are at least 2,000 individuals in the

1 putative class, (First Amended Complaint ¶11, Exh. I). The scope of this class, as
2 identified in Plaintiff's Complaint, is all California-based Adecco employees paid on
3 an hourly basis assigned to work from four (4) years prior to filing of this action to
4 the conclusion of this action for whom Adecco records depict a meal period not
5 taken who did not receive a compensation payment by Adecco for the lack of the
6 meal period. As Adecco employees thousands of employees in California every
7 month, the size of the putative class is well in excess of 100. (Karabelas Decl. ¶ 7).

8

9 **C. Amount In Controversy**

10 10. Plaintiff's original Complaint did not set forth any specific
11 amount of damages. In Plaintiff's Case Management Conference Statement mail
12 served on October 3, 2007, Plaintiff "estimate[d] damages will exceed \$10,000,000
13 arising from Goldsby and class member claims." While, Defendant vigorously
14 denies any liability, Defendant acknowledges that Plaintiff has now alleged claims
15 in excess of \$5,000,000. Accordingly, the amount in controversy is in excess of
16 \$5,000,000. *See* 28 U.S.C. § 1332(d)(6) ("the claims of the individual class
17 members shall be aggregated to determine whether the matter in controversy the
18 sum or value of \$5,000,000.").

19

20 **D. CAFA Exceptions Are Not Applicable**

21 11. Further, while 28 U.S.C. § 1332(d)(3) and (4) do recognize
22 situations where this Court may or must decline jurisdiction despite the fact that the
23 minimal diversity and the amount in controversy requirements of § 1332(d)(2) are
24 satisfied, this case does not fall into either category because Adecco is not a citizen
25 of California. *See* 28 U.S.C. §§ 1331(d)(3)(discretionary declination of jurisdiction
26 limited to situations where "the primary defendants are citizens of the state where
27 the action was originally filed.") and 1331(d)(4)(A)(local controversy mandatory
28 declination limited to where "at least one defendant is ... a citizen of the State in

1 which the class action was filed.” *See also* 1331(d)(4)(B)(home state controversy
2 mandatory declination limited to cases where “the primary defendants are citizens of
3 the State in which the action was originally filed.”). Additionally, Plaintiff
4 shoulders the burden of establishing that any of these exceptions apply. *Hart, supra*
5 457 F.3d at 682 (“Our holding [is] that the plaintiff has the burden of persuasion on
6 the question whether the home-state or local controversy exceptions apply.”)

8 III. TIMELINESS OF REMOVAL

9 12. The appropriate time for removal is set forth in 28 U.S.C.
10 § 1446(b), which provides:

11
12 “The notice of removal of a civil action or proceeding shall be filed
13 within thirty days after the receipt by the defendant, through service or
14 otherwise, of a copy of the initial pleading setting forth the claim for
15 relief upon which such action or proceeding is based, or within thirty
16 days after the service of summons upon the defendant if such initial
17 pleading has then been filed in court and is not required to be served on
18 the defendant, whichever period is shorter.

19 If the case stated by the initial pleading is not removable, a notice of
20 removal may be filed within thirty days after receipt by the defendant,
21 through service or otherwise, of a copy of an amended pleading,
22 motion, order or other paper from which it may first be ascertained that
23 the case is one which is or has become removable, except that a case
24 may not be removed on the basis of jurisdiction conferred by section
25 1332 of this title [28 USCS § 1332] more than 1 year after
26 commencement of the action.”

27 13. Pursuant to 28 U.S.C. § 1446(b), there are two time windows in
28 which removal is appropriate, depending on the pleadings in the case. First, if the
removability of the case is evident from the initial complaint, a defendant has a
thirty-day time limit for removal from the time the defendant is served with the
complaint. *See* 28 U.S.C. § 1446(b); *see also Durham v. Lockheed Martin Corp.*,
445 F.3d 1247, 1250 (9th Cir. 2006). This initial thirty day window only applies if
the case is removable on the face of the pleading. *See Harris v. Bankers Life and*

1 *Casualty Co.*, 425 F.3d 689, 694 (9th Cir. 2005) ("the first thirty-day period for
2 removal in 28 U.S.C. § 1446(b) only applies if the case stated by the initial pleading
3 is removable on its face.").

4
5 14. Second, if the removability of an action is not evident from the
6 face of the initial pleading, the defendant has thirty days to remove "after receipt by
7 the defendant, through service or otherwise, of a copy of an amended pleading,
8 motion, order or other paper from which it may first be ascertained that the case is
9 one which is or has become removable." 28 U.S.C. § 1446(b); *see also Harris v.*
10 *Bankers Life and Cas. Co.*, 425 F.3d 689, 694-95 (9th Cir. 2005) (where "such
11 details are obscured or omitted ... [such omission] makes the case 'stated by the
12 initial pleading' not removable, and the defendant will have 30 days from the
13 revelation of grounds for removal in an amended pleading ... or other paper to file
14 its notice of removal.").

15
16 15. In diversity cases where removal is dependent on the amount in
17 controversy exceeding a certain dollar amount, the defendant is not put on notice
18 that the action is removable by the initial complaint unless the complaint states a
19 specific amount of damages in excess of the jurisdictional limit. *See Harris*, 425
20 F.3d at 695, n.5 (quoting *In re Willis*, 228 F.3d 896, 897 (8th Cir. 2000)) (where a
21 plaintiff fails to explicitly disclose the amount of damages in his or her complaint,
22 the clock does not begin to run upon receipt of the complaint.); *see also Bullard v.*
23 *Allstate Ins. Co.*, 2006 U.S. Dist. LEXIS 94390 (N.D. Cal 2006) ("courts adopt a
24 bright line rule requiring the plaintiff, if he wishes the thirty-day time period to run
25 from the defendant's receipt of the initial pleading, to place in the initial pleading a
26 specific allegation that damages are in excess of the federal jurisdictional amount."
27 (internal citations omitted)). This is true for cases removed under CAFA as well as
28 under traditional diversity grounds. *See Babasa v. LensCrafters, Inc.*, 498 F.3d 972,

1 973 (9th Cir. 2007). In such cases, the thirty day clock for removal begins when the
2 Defendant is first put on notice that the amount in controversy exceeds the
3 jurisdictional limit for removal. *Id.*

4
5 16. In this case, Plaintiff's State Court Action was filed in the
6 Superior Court for the County of Alameda on or about July 26, 2007. (Barker Decl.
7 ¶ 5, Exh. A). The original Complaint did not allege a specific damage amount.
8 Instead, Plaintiff's Complaint generally prayed for "[c]ompensatory and statutory
9 damages, penalties and restitution...in an amount to be proven at trial" and "punitive
10 damages as appropriate." (Barker Decl. ¶ 5, Exh. A). Accordingly, the Complaint
11 did not put Defendant on notice that this case was removable and Defendant's time
12 to remove did not begin to run.

13
14 17. On October 3, 2007, Plaintiff filed and mail served a Case
15 Management Conference Statement. (Barker Decl. ¶ 6, Exh. K). The Case
16 Management Conference Statement reached Defense Counsel on October 5, 2007.
17 (Barker Decl. ¶ 6). The Case Management Conference Statement stated "Goldsby
18 estimates damages will exceed \$10,000,000 arising from Goldsby and class member
19 claims." (Barker Decl. ¶ 6, Exh. K). This was the first time Defendant received a
20 copy of a pleading, motion, order or other paper from which it was ascertained that
21 the amount in controversy exceeded \$5,000,000. (Barker Decl. ¶ 6). Therefore, this
22 case became removable under CAFA only after service of the Case Management
23 Statement.

24
25 18. This Notice of Removal is timely filed pursuant to 28 U.S.C.
26 § 1446(b) and Fed. R. Civ. P. 6(a), in that it is filed within thirty (30) days after
27 Adecco was served with a copy of Plaintiff's Case Management Conference
28 Statement on October 5, 2007, which for the first time alleged that the amount in

1 controversy exceeded the jurisdictional limit for removal. *See Harris v. Bankers*
2 *Life and Cas. Co.*, 425 F.3d 689, 694-95 (9th Cir. 2005).

3
4 **IV. VENUE**

5 19. Venue is proper in the Northern District of California pursuant to
6 29 U.S.C. § 1391(a)(2), because a substantial part of the events giving rise to the
7 alleged claims occurred in the Northern District of California. Venue in the
8 Northern District of California is also proper pursuant to 28 U.S.C. § 1441(a)
9 because the county in which the State Court Action was pending is found within this
10 District.

11
12 **V. DEFENSES**

13 20. The removal of this action to the Northern District of California
14 does not waive Adecco's ability to assert any defense to this action.

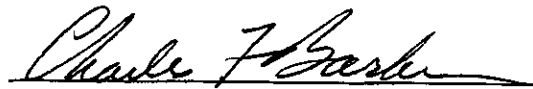
15
16 21. Adecco will file a true and correct copy of this Notice of
17 Removal with the Superior Court for the County of Alameda and will serve notice
18 of removal on Plaintiff.

1 WHEREFORE, Adecco has removed this action to the United States
2 District Court for the Northern District of California, in accordance with the statutes
3 in such cases made and provided.
4

5 Dated: November 2, 2007

6 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
7

8 By



9 CHARLES F. BARKER

10 ROSS A. BOUGHTON

11 Attorneys for Defendant ADECCO INC.
12
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28

EXHIBIT F.

1 Daniel H. Qualls, Bar No. 109036
2 Robin G. Workman, Bar No. 145810
3 **QUALLS & WORKMAN, LLP**
4 244 California Street, Suite 410
5 San Francisco, CA 94111
6 Telephone: (415) 782-3660
7 Facsimile: (415) 788-1028

8 David Sanford, D.C. Bar No. 457933
9 Meenoo Chahbazi, CA Bar No. 233985
10 **SANFORD, WITTELS & HEISLER, LLP**
11 1666 Connecticut Avenue, N.W., Suite 310
12 Washington, D.C. 20009
13 Telephone: (202) 742-7780
14 Facsimile: (202) 742-7776

15 Grant Morris, D.C. Bar No. 926253
16 **LAW OFFICES OF GRANT E. MORRIS**
17 1666 Connecticut Avenue, N.W., Suite 310
18 Washington, D.C. 20009
19 Telephone: (202) 742-7783
20 Facsimile: (202) 742-7776

21 *Attorneys for Plaintiff*

22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA

24 SHAVOTNAE GOLDSBY, AND ALL OTHERS
25 SIMILARLY SITUATED,

26 Plaintiff,

27 vs.

28 ADECCO, INC, and DOES 1 through 100, inclusive,
Defendants.

No. CV-07-5604 MMC

**NOTICE OF TAKING DEPOSITION
OF DEFENDANT ADECCO,
PURSUANT TO FRCP 30(b)(6)
REGARDING MEAL PERIOD BREAK
POLICY AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

1 TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:

2 YOU ARE HEREBY NOTIFIED that, pursuant to FRCP 30(b)(6), Plaintiff
3 SHAVOTNAE GOLDSBY will take the deposition of ADECCO, INC. ("deponent") who shall
4 designate and produce at the deposition those of its officers, directors, managing agents,
5 employees or agents who are most qualified to testify on its behalf, to the extent of any
6 information known or reasonably available to the deponent regarding ADECCO, INC.'S meal
7 period break policy as applied to California hourly employees between July 26, 2003, and the
8 present. The deposition will commence on March 5, 2008 at 3:00 p.m. at the law firm of Qualls &
9 Workman, LLP, 244 California Street, Suite 410, San Francisco, CA, upon examination before a
10 notary public duly authorized to administer oaths. Said deposition to continue from day to day
11 until completed, Saturdays, Sundays and holidays excepted. The deposing party intends to record
12 the proceedings by stenographic method, through the instant visual display of the testimony and/or
13 videotape recording.

14 PLEASE TAKE FURTHER NOTICE that pursuant to FRCP Rules 30(b)(2) and 34, in
15 addition to attending, at the time and on the date specified, the deponent will be required to bring
16 and produce at or before said time and place, the documents and things listed below which are in
17 the deponent's possession, custody or control, or are in the possession, custody or control of the
18 deponent's officers, directors, agents, employees or attorneys.

19 **INSTRUCTIONS**

20 1. This request requires you to produce all documents that are in your actual or
21 constructive possession, custody or control or that are in the possession, custody or control of your
22 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
23 your behalf.

24 2. If any requested document was, but is no longer in your possession, you must
25 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
26 such identification should, for each such document, set forth whether the document (i) has been
27 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your

1 possession, custody, or control, in which case the name and address of any person or entity known
2 or believed by you to have possession, custody, or control of that document or category of
3 documents should be identified. In each such instance, explain the circumstances surrounding the
4 disposition and state the date or approximate date of such disposition and the identity of all
5 persons who you believe to have knowledge of such disposition.

6 3. If you withhold any of the requested documents from production under a claim of
7 privilege or other protection, you must serve the undersigned a list of such withheld documents
8 indicating, for each document withheld, the following information: (i) the date composed or date
9 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
10 made; (v) the identity of all persons or entities who saw the original document or saw or received a
11 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
12 basis for the claim of privilege.

13 4. This request requires the production of documents either in the same form or in the
14 same order as they are kept in the usual course of business or organized and labeled to correspond
15 with the particular demands set forth below. If you choose the former method, the documents are
16 to be produced in the boxes, file folders, bindings or other containers in which the documents are
17 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
18 containers are to be left intact.

19 **I. DEFINITIONS**

20 Unless specifically indicated otherwise, the following definitions are applicable throughout
21 this notice (including this Definitions section) and are incorporated by reference into each specific
22 request. The definitions are limited, if at all, only to the extent necessary to avoid a nonsensical
23 meaning of any request.

24 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
25 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
26 directors, employees, representatives, and agents, and any person acting or purporting to act on
27 behalf of any of the foregoing.

28

1 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
2 should be understood to include and encompass "AND"; and "AND" should be understood to
3 include and encompass "OR".

4 C. The terms "DOCUMENT" or "DOCUMENTS" shall mean any tangible thing upon
5 which any expression, communication or representation has been recorded by any means including,
6 but not limited to, "COMPUTER RECORDS," "E-MAIL RECORDS," handwriting, typewriting,
7 printing, photostating, photographing, audiotaping, videotaping, magnetic impulse, or mechanical or
8 electronic recording and any nonidentical copies (whether different from the original because of notes
9 made on such copies, because of indications that said copies were sent to different individuals than
10 were the originals, or because of any other reason), including but not limited to working papers,
11 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
12 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
13 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
14 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
15 and all other writings and recordings of every kind that are in your actual or constructive possession,
16 custody or control.

17 D. "COMPUTER RECORDS" shall mean any tangible thing upon which any
18 expression, communication or representation has been recorded by any means including, but not
19 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
20 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
21 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
22 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
23 means of electronic recording and any nonidentical copies (whether different from the original
24 because of notes made on such copies, because of indications that said copies were sent to different
25 individuals than were the originals, or because of any other reason), including but not limited to
26 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,
27 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,
28

1 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
2 and all other writings and recordings of every kind that are in your actual or constructive possession,
3 custody or control.

4 E. "E-MAIL RECORDS" shall mean any and all tangible thing upon which any
5 expression, communication or representation has been recorded by any means including, but not
6 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
7 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
8 intraoffice network e-mail, including any copies which may be stored electronically in any manner
9 including, but not limited to, network server storage, backup storage, online server storage,
10 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
11 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
12 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
13 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
14 different from the original because of notes made on such copies, because of indications that said
15 copies were sent to different individuals than were the originals, or because of any other reason),
16 including but not limited to working papers, preliminary, intermediate or final drafts, correspondence,
17 memoranda, charts, notes, scripts, records of any sort of meetings, invoices, financial statements,
18 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
19 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
20 your actual or constructive possession, custody or control.

21 F. As used herein, the term "REGARDING" means relating to, referring to, pertaining to,
22 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
23 factually connected with the matter referenced, whether in whole or in part.

24 **DOCUMENTS REQUESTED TO BE PRODUCED**

25 The following sets forth the documents to be produced at the above-noticed deposition by
26 the deponent. The deponent should produce all documents responsive to this request within the
27 possession, custody or control of deponent at the deposition.

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR meal period break policies for California hourly employees in effect between July 26, 2003, AND the present.

Date: February 5, 2008

QUALLS & WORKMAN, L.L.P.

By: 

Daniel H. Qualls
Attorney for Plaintiff

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

On February 5, 2008, I served the following documents:


NOTICE OF TAKING DEPOSITION OF DEFENDANT ADECCO, PURSUANT TO FRCP 30(b)(6) REGARDING MEAL PERIOD BREAK POLICY AND REQUEST FOR PRODUCTION OF DOCUMENTS

on the interested parties in this action by hand delivery at the following address:

Ross A. Boughton, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: F. Duarte

Sign Name: 

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

On February 5, 2008, I served the following documents:

**NOTICE OF TAKING DEPOSITION OF DEFENDANT ADECCO, PURSUANT TO
FRCP 30(b)(6) REGARDING MEAL PERIOD BREAK POLICY AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

on the interested parties in this action by hand delivery at the following address:

Ross A. Boughton, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: 151

Sign Name: _____

1 Daniel H. Qualls, Bar No. 109036
Robin G. Workman, Bar No. 145810
2 **QUALLS & WORKMAN, LLP**
244 California Street, Suite 410
3 San Francisco, CA 94111
Telephone: (415) 782-3660
4 Facsimile: (415) 788-1028

5 David Sanford, D.C. Bar No. 457933
Meenoo Chahbazi, CA Bar No. 233985
6 **SANFORD, WITTELS & HEISLER, LLP**
1666 Connecticut Avenue, N.W., Suite 310
7 Washington, D.C. 20009
Telephone: (202) 742-7780
8 Facsimile: (202) 742-7776

9 Grant Morris, D.C. Bar No. 926253
LAW OFFICES OF GRANT E. MORRIS
10 1666 Connecticut Avenue, N.W., Suite 310
Washington, D.C. 20009
11 Telephone: (202) 742-7783
Facsimile: (202) 742-7776
12

13 *Attorneys for Plaintiff*

14
15
16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18

19 SHAVOTNAE GOLDSBY, AND ALL OTHERS
20 SIMILARLY SITUATED,

21 Plaintiff,

22 vs.

23 ADECCO, INC, and DOES 1 through 100, inclusive,

24 Defendants.
25

No. CV-07-5604 MMC

26 **NOTICE OF TAKING DEPOSITION**
27 **OF DEFENDANT ADECCO,**
28 **PURSUANT TO FRCP 30(b)(6)**
REGARDING RECORD KEEPING
PRACTICES, AND REQUEST FOR
PRODUCTION OF DOCUMENTS

TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:

YOU ARE HEREBY NOTIFIED that, pursuant to FRCP 30(b)(6), Plaintiff

SHAVOTNAE GOLDSBY will take the deposition of ADECCO, INC. ("deponent") who shall

1 designate and produce at the deposition those of its officers, directors, managing agents,
2 employees or agents who are most qualified to testify on its behalf, to the extent of any
3 information known or reasonably available to the deponent regarding ADECCO, INC.'S meal
4 period breaks record keeping practices and procedures applied to California employees between
5 July 26, 2003, and the present. The deposition will commence on March 5, 2008 at 9:30 a.m., at
6 the law firm of Qualls & Workman, LLP, 244 California Street, Suite 410, San Francisco, CA,
7 upon examination before a notary public duly authorized to administer oaths. Said deposition to
8 continue from day to day until completed, Saturdays, Sundays and holidays excepted. The
9 deposing party intends to record the proceedings by stenographic method, through the instant
10 visual display of the testimony and/or videotape recording.

11 PLEASE TAKE FURTHER NOTICE that pursuant to FRCP Rules 30(b)(2) and 34, in
12 addition to attending, at the time and on the date specified, the deponent will be required to bring
13 and produce at or before said time and place, the documents and things listed below which are in
14 the deponent's possession, custody or control, or are in the possession, custody or control of the
15 deponent's officers, directors, agents, employees or attorneys.

16 **INSTRUCTIONS**

17 1. This request requires you to produce all documents that are in your actual or
18 constructive possession, custody or control or that are in the possession, custody or control of your
19 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
20 your behalf.

21 2. If any requested document was, but is no longer in your possession, you must
22 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
23 such identification should, for each such document, set forth whether the document (i) has been
24 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your
25 possession, custody, or control, in which case the name and address of any person or entity known
26 or believed by you to have possession, custody, or control of that document or category of
27 documents should be identified. In each such instance, explain the circumstances surrounding the
28

1 disposition and state the date or approximate date of such disposition and the identity of all
2 persons who you believe to have knowledge of such disposition.

3 3. If you withhold any of the requested documents from production under a claim of
4 privilege or other protection, you must serve the undersigned a list of such withheld documents
5 indicating, for each document withheld, the following information: (i) the date composed or date
6 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
7 made; (v) the identity of all persons or entities who saw the original document or saw or received a
8 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
9 basis for the claim of privilege.

10 4. This request requires the production of documents either in the same form or in the
11 same order as they are kept in the usual course of business or organized and labeled to correspond
12 with the particular demands set forth below. If you choose the former method, the documents are
13 to be produced in the boxes, file folders, bindings or other containers in which the documents are
14 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
15 containers are to be left intact.

16 **I. DEFINITIONS**

17 Unless specifically indicated otherwise, the following definitions are applicable throughout
18 this notice (including this Definitions section) and are incorporated by reference into each specific
19 request. The definitions are limited, if at all, only to the extent necessary to avoid a nonsensical
20 meaning of any request.

21 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
22 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
23 directors, employees, representatives, and agents, and any person acting or purporting to act on
24 behalf of any of the foregoing.

25 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
26 should be understood to include and encompass "AND"; and "AND" should be understood to
27 include and encompass "OR".
28

1 C. The terms "**DOCUMENT**" or "**DOCUMENTS**" shall mean any tangible thing upon
2 which any expression, communication or representation has been recorded by any means including,
3 but not limited to, "**COMPUTER RECORDS**," "**E-MAIL RECORDS**," handwriting, typewriting,
4 printing, photostating, photographing, audiotaping, videotaping, magnetic impulse, or mechanical or
5 electronic recording and any nonidentical copies (whether different from the original because of notes
6 made on such copies, because of indications that said copies were sent to different individuals than
7 were the originals, or because of any other reason), including but not limited to working papers,
8 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
9 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
10 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
11 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
12 and all other writings and recordings of every kind that are in your actual or constructive possession,
13 custody or control.

14 D. "**COMPUTER RECORDS**" shall mean any tangible thing upon which any
15 expression, communication or representation has been recorded by any means including, but not
16 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
17 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
18 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
19 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
20 means of electronic recording and any nonidentical copies (whether different from the original
21 because of notes made on such copies, because of indications that said copies were sent to different
22 individuals than were the originals, or because of any other reason), including but not limited to
23 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,
24 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,
25 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
26 and all other writings and recordings of every kind that are in your actual or constructive possession,
27 custody or control.

28

1 E. **"E-MAIL RECORDS"** shall mean any and all tangible thing upon which any
2 expression, communication or representation has been recorded by any means including, but not
3 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
4 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
5 intraoffice network e-mail, including any copies which may be stored electronically in any manner
6 including, but not limited to, network server storage, backup storage, online server storage,
7 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
8 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
9 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
10 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
11 different from the original because of notes made on such copies, because of indications that said
12 copies were sent to different individuals than were the originals, or because of any other reason),
13 including but not limited to working papers, preliminary, intermediate or final drafts, correspondence,
14 memoranda, charts, notes, scripts, records of any sort of meetings, invoices, financial statements,
15 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
16 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
17 your actual or constructive possession, custody or control.

18 F. As used herein, the term **"REGARDING"** means relating to, referring to, pertaining to,
19 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
20 factually connected with the matter referenced, whether in whole or in part.

21 **DOCUMENTS REQUESTED TO BE PRODUCED**

22 The following sets forth the documents to be produced at the above-noticed deposition by
23 the deponent. The deponent should produce all documents responsive to this request within the
24 possession, custody or control of deponent at the deposition.
25
26
27
28

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR meal period breaks record keeping practices and procedures applied to California employees between July 26, 2003 and the present.

Date: February 5, 2008

QUALLS & WORKMAN, L.L.P.



**Daniel H. Qualls
Attorney for Plaintiff**

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

On February 5, 2008, I served the following documents:

**NOTICE OF TAKING DEPOSITION OF DEFENDANT ADECCO, PURSUANT TO
FRCP 30(b)(6) REGARDING RECORD KEEPING PRACTICES, AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

on the interested parties in this action by hand delivery at the following address:

Ross A. Boughton, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: F. Duarte

Sign Name: [Signature]

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

On February 5, 2008, I served the following documents:

**NOTICE OF TAKING DEPOSITION OF DEFENDANT ADECCO, PURSUANT TO
FRCP 30(b)(6) REGARDING RECORD KEEPING PRACTICES, AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

on the interested parties in this action by hand delivery at the following address:

Ross A. Boughton, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: BSI

Sign Name: _____

Daniel H. Qualls, Bar No. 109036
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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

SHAVOTNAE GOLDSBY, AND ALL OTHERS SIMILARLY SITUATED, Plaintiff, vs. ADECCO, INC, and DOES 1 through 100, inclusive, Defendants.) No. CV-07-5604 MMC)) NOTICE OF TAKING DEPOSITION) OF DEFENDANT ADECCO,) PURSUANT TO FRCP 30(b)(6)) REGARDING PAYMENT OF) COMPENSATION, AND REQUEST) FOR PRODUCTION OF DOCUMENTS
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TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:

YOU ARE HEREBY NOTIFIED that, pursuant to FRCP 30(b)(6), Plaintiff

SHAVOTNAE GOLDSBY will take the deposition of ADECCO, INC. ("deponent") who shall

1 designate and produce at the deposition those of its officers, directors, managing agents,
2 employees or agents who are most qualified to testify on its behalf, to the extent of any
3 information known or reasonably available to the deponent regarding ADECCO, INC.'S practice
4 or policy regarding payment of compensation as prescribed by California Labor Code Section
5 226.7 for missed rest and/or meal period breaks, as applied to California employees between July
6 26, 2003, and the present. The deposition will commence on March 5, 2008 at 11:00 a.m., at the
7 law firm of Qualls & Workman, LLP, 244 California Street, Suite 410, San Francisco, CA, upon
8 examination before a notary public duly authorized to administer oaths. Said deposition to
9 continue from day to day until completed, Saturdays, Sundays and holidays excepted. The
10 deposing party intends to record the proceedings by stenographic method, through the instant
11 visual display of the testimony and/or videotape recording.

12 PLEASE TAKE FURTHER NOTICE that pursuant to FRCP Rules 30(b)(2) and 34, in
13 addition to attending, at the time and on the date specified, the deponent will be required to bring
14 and produce at or before said time and place, the documents and things listed below which are in
15 the deponent's possession, custody or control, or are in the possession, custody or control of the
16 deponent's officers, directors, agents, employees or attorneys.

17 INSTRUCTIONS

18 1. This request requires you to produce all documents that are in your actual or
19 constructive possession, custody or control or that are in the possession, custody or control of your
20 attorneys, accountants, representatives, consultants, agents, employees, or anyone else acting on
21 your behalf.

22 2. If any requested document was, but is no longer in your possession, you must
23 specify in writing and serve upon the undersigned a list indicating the identity of such documents.
24 such identification should, for each such document, set forth whether the document (i) has been
25 destroyed, (ii) has been lost, misplaced, or stolen, or (iii) has never been or is no longer, in your
26 possession, custody, or control, in which case the name and address of any person or entity known
27 or believed by you to have possession, custody, or control of that document or category of

1 documents should be identified. In each such instance, explain the circumstances surrounding the
2 disposition and state the date or approximate date of such disposition and the identity of all
3 persons who you believe to have knowledge of such disposition.

4 3. If you withhold any of the requested documents from production under a claim of
5 privilege or other protection, you must serve the undersigned a list of such withheld documents
6 indicating, for each document withheld, the following information: (i) the date composed or date
7 appearing on the document; (ii) the author; (iii) the number of pages; (iv) the number of copies
8 made; (v) the identity of all persons or entities who saw the original document or saw or received a
9 copy of such document, and the job titles of each such person; (vi) the subject matter; and (vii) the
10 basis for the claim of privilege.

11 4. This request requires the production of documents either in the same form or in the
12 same order as they are kept in the usual course of business or organized and labeled to correspond
13 with the particular demands set forth below. If you choose the former method, the documents are
14 to be produced in the boxes, file folders, bindings or other containers in which the documents are
15 found. The titles, labels, or other descriptions on the boxes, file folders, bindings or other
16 containers are to be left intact.

17 **I. DEFINITIONS**

18 Unless specifically indicated otherwise, the following definitions are applicable throughout
19 this notice (including this Definitions section) and are incorporated by reference into each specific
20 request. The definitions are limited, if at all, only to the extent necessary to avoid a nonsensical
21 meaning of any request.

22 A. The terms "YOU", "YOUR", and "YOURS" include the deponent, deponent's
23 predecessors, affiliates, subsidiaries, successors, and assigns, each of their past or present officers,
24 directors, employees, representatives, and agents, and any person acting or purporting to act on
25 behalf of any of the foregoing.

26
27
28

1 B. "ANY" or "EACH" should be understood to include and encompass "ALL"; "OR"
2 should be understood to include and encompass "AND"; and "AND" should be understood to
3 include and encompass "OR".

4 C. The terms "DOCUMENT" or "DOCUMENTS" shall mean any tangible thing upon
5 which any expression, communication or representation has been recorded by any means including,
6 but not limited to, "COMPUTER RECORDS," "E-MAIL RECORDS," handwriting, typewriting,
7 printing, photostating, photographing, audiotaping, videotaping, magnetic impulse, or mechanical or
8 electronic recording and any nonidentical copies (whether different from the original because of notes
9 made on such copies, because of indications that said copies were sent to different individuals than
10 were the originals, or because of any other reason), including but not limited to working papers,
11 preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes, scripts, records
12 of any sort of meetings, invoices, financial statements, financial calculations, diaries, reports of
13 telephone or other oral conversations, desk calendars, appointment books, audio or video tape
14 recordings, microfilm, microfiche, computer tape, computer disk, computer printout, computer card,
15 and all other writings and recordings of every kind that are in your actual or constructive possession,
16 custody or control.

17 D. "COMPUTER RECORDS" shall mean any tangible thing upon which any
18 expression, communication or representation has been recorded by any means including, but not
19 limited to, network server storage, backup storage, online server storage, microfilm, microfiche,
20 computer tape, computer disk, computer floppy diskette, computer printout, computer card, computer
21 hard drive, computer floppy drive, removable computer drive storage, scanner, computer facsimile,
22 printing, photostating, photographing, video recording, audio recording, magnetic impulse, or other
23 means of electronic recording and any nonidentical copies (whether different from the original
24 because of notes made on such copies, because of indications that said copies were sent to different
25 individuals than were the originals, or because of any other reason), including but not limited to
26 working papers, preliminary, intermediate or final drafts, correspondence, memoranda, charts, notes,
27 scripts, records of any sort of meetings, invoices, financial statements, financial calculations, diaries,

1 reports of telephone or other oral conversations, calendars, task schedulers, audio or video recordings,
2 and all other writings and recordings of every kind that are in your actual or constructive possession,
3 custody or control.

4 E. "E-MAIL RECORDS" shall mean any and all tangible thing upon which any
5 expression, communication or representation has been recorded by any means including, but not
6 limited to, any form of electronic mail, Internet online e-mail, any form of interoffice and/or
7 intraoffice network e-mail, printouts of documents from Internet online e-mail or interoffice and
8 intraoffice network e-mail, including any copies which may be stored electronically in any manner
9 including, but not limited to, network server storage, backup storage, online server storage,
10 microfilm, microfiche, computer tape, computer disk, computer floppy diskette, computer printout,
11 computer card, computer hard drive, computer floppy drive, removable computer drive storage,
12 scanner, computer facsimile, printing, photo stating, photographing, video recording, audio recording,
13 magnetic impulse, or other means of electronic recording and any nonidentical copies (whether
14 different from the original because of notes made on such copies, because of indications that said
15 copies were sent to different individuals than were the originals, or because of any other reason),
16 including but not limited to working papers, preliminary, intermediate or final drafts, correspondence,
17 memoranda, charts, notes, scripts, records of any sort of meetings, invoices, financial statements,
18 financial calculations, diaries, reports of telephone or other oral conversations, calendars, task
19 schedulers, audio or video recordings, and all other writings and recordings of every kind that are in
20 your actual or constructive possession, custody or control.

21 F. As used herein, the term "REGARDING" means relating to, referring to, pertaining to,
22 reflecting, substantiating, evidencing, constituting, or in any manner whatsoever logically or
23 factually connected with the matter referenced, whether in whole or in part.

24 **DOCUMENTS REQUESTED TO BE PRODUCED**


25 The following sets forth the documents to be produced at the above-noticed deposition by
26 the deponent. The deponent should produce all documents responsive to this request within the
27 possession, custody or control of deponent at the deposition.

LIST OF DOCUMENTS

ALL DOCUMENTS REGARDING YOUR practice or policy **REGARDING** payment of compensation prescribed by California Labor Code Section 226.7 for missed rest **AND/OR** meal period breaks as applied to California employees between July 26, 2003 and the present.

Date: February 5, 2008

QUALLS & WORKMAN, L.L.P.



Daniel H. Qualls
Attorney for Plaintiff

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

On February 5, 2008, I served the following documents:

NOTICE OF TAKING DEPOSITION OF DEFENDANT ADECCO, PURSUANT TO FRCP 30(b)(6) REGARDING PAYMENT OF COMPENSATION, AND REQUEST FOR PRODUCTION OF DOCUMENTS

on the interested parties in this action by hand delivery at the following address:

Ross A. Boughton, Esq.
Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: F. Duarte

Sign Name: Frank Duarte

PROOF OF SERVICE

I, the undersigned, hereby declare:

I am employed by Legal Support Services in the City and County of Los Angeles, California. I am over the age of eighteen years and not a party to the within action. My business address is 1262 1/2 West Second Street, Los Angeles, California.

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Sheppard, Mullin, Richter & Hampton, LLP
333 South Hope Street, 48th Floor
Los Angeles, California 90071

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 5, 2008, at Los Angeles, California.

Print Name: 151

Sign Name: _____

EXHIBIT G.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHAVOTNAE GOLDSBY, AND
ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

vs.

ADECCO, INC, and DOES 1
through 100, inclusive,

Defendants.

Case No. CV-07-5604 MMC

DEPOSITION OF

KIM HANS

---oOo---

JUNE 4, 2008

REPORTED BY: CHERREE P. GAGE, CSR No. 11108, RPR, CRR

KIM HANS

1 Q. When Adecco employees fill out time cards, do
2 they do so online?

3 A. They can do so online.

4 Q. Is there any other way they can fill out time
5 cards?

6 A. We also have a telephone system that they can
7 input their time through.

8 Q. Any other way?

9 A. They can turn in a time card to our office,
10 they can use a punch clock or electronic timekeeping
11 system at the customer site.

12 Q. Any other way?

13 A. I can't think of anything.

14 Q. What percentage of time cards are filled out
15 online?

16 A. I don't know the exact answer to that.

17 Q. Can you give me an estimation?

18 A. I would not be able to give you an estimation.
19 We would have to do some research to find out.

20 Q. Are most time cards filled out online?

21 A. I wouldn't say most, no. It really varies.

22 Q. How long are time cards filled out online
23 kept?

24 A. I don't know the exact answer to that, but we
25 can find out for you.

1 individual employees?

2 A. Yes.

3 Q. If you wanted to know if an employee received
4 a meal period, are you able to retrieve data in the
5 system to answer the question of whether the employee
6 did receive a meal period?

7 MR. BARKER: Objection. Vague. What do you
8 mean by "system"?

9 MR. QUALLS: Fair enough. I listen to
10 objections. If they're vague I rephrase my questions.

11 Q. What system is used to input time cards? Does
12 it have a name?

13 A. The time capture tool. It's called our
14 individual web time card.

15 Q. Are you able to go onto the individual web
16 time card and retrieve time card information to
17 determine if an individual employee received a meal
18 period?

19 A. It doesn't specifically identify the meal
20 period. It identifies the total hours.

21 Q. Is there any data, to your knowledge, on the
22 individual web time card that enables one to determine
23 if an employee received a meal period?

24 A. Not on the individual web time card.

25 Q. Is there any system that enables one to

1 determine for employees who fill out time cards using
2 Exhibit 3 whether an employee received a meal period?

3 A. No.

4 Q. So if you wanted to know if an individual
5 employee received a meal period for a given week worked
6 or a given day worked, there's no system that you're
7 aware of that would enable you to retrieve data to
8 determine whether the employee received a meal period?

9 A. No.

10 MR. QUALLS: Could you read back my question,
11 please.

12 (Whereupon the record was read as requested.)

13 Q. BY MR. QUALLS: To your knowledge has any such
14 system existed at Adecco since -- for the period from
15 July 2003 to the present?

16 A. No. There's no system.

17 Q. Is there any means to your knowledge by which
18 you are able to retrieve employee data to determine if
19 an employee received a meal period?

20 A. We could view the time card.

21 Q. Let's stop right there. How do you go about
22 viewing a time card? And again, I'm asking questions
23 regarding employees who use Exhibit 3. All right?

24 A. Right. The time cards that are turned in to
25 our office, we can access those. We can ask an

1 associate to see their time card. And customers in some
2 cases have copies of the time cards and we can ask them
3 to see the time card.

4 MR. QUALLS: Could you read back that response
5 for me, please.

6 (Whereupon the record was read as requested.)

7 Q. BY MR. QUALLS: Do employees who use Exhibit 3
8 for their time cards also submit hard copy time cards?

9 A. Sometimes.

10 Q. And some employees don't do so; is that
11 correct?

12 A. Right.

13 Q. For employees who submit Exhibit 3 as their
14 time card electronically, are those employees also
15 required to submit a hard copy time card?

16 A. They're not required to.

17 Q. For employees who submit Exhibit 3
18 electronically, are customers also required to maintain
19 a time card for that employee?

20 A. We'd like them to. They're not required to.

21 Q. Have you ever tried to retrieve meal period
22 information for an employee who has submitted a time
23 card such as Exhibit 3?

24 A. I have not.

25 Q. Have you ever directed anyone to do so?

1 A. I would say no.

2 Q. All right. Perhaps I'm confused. Let me ask
3 you this question. Let's turn our attention to Exhibit
4 3, again. All right?

5 A. Yes.

6 Q. This is a hard copy of what you would see if
7 you -- if an employee enters their time electronically.

8 A. Yes.

9 Q. A screen?

10 MR. BARKER: What is? I'm sorry?

11 MR. QUALLS: Exhibit 3.

12 MR. BARKER: You're saying does the screen
13 show all of this same --

14 MR. QUALLS: Yes.

15 MR. BARKER: Exactly the same as Exhibit 3?

16 MR. QUALLS: Yes.

17 THE WITNESS: No.

18 Q. BY MR. QUALLS: All right. The screen entry
19 format is different; is that right?

20 A. Yes.

21 Q. All right. The format for entry of time card
22 information electronically provides for entry of
23 information regarding meal periods; is that correct?

24 A. Ask me again.

25 Q. The format for entry of data electronically,

1 time card data electronically, provides for entry of
2 meal period data, correct?

3 A. The format for the electronic time card asks
4 for total hours. So your meal period would be captured
5 in your total hours, but it doesn't outline the meal
6 period.

7 Q. How would the meal period data be captured?

8 A. On the paper time card.

9 Q. Only on the paper time card; is that correct?

10 A. That's right.

11 Q. So if you were an employee and you are
12 entering your time card electronically, you are not
13 entering information regarding meal periods; is that
14 correct?

15 A. You are entering it as it's captured in our
16 total hours, but it's not broken down by meal period.

17 Q. All right. How is it captured in our total
18 hours?

19 A. Because you'll use this time card and you'll
20 put the -- what time you start, the time you log out for
21 lunch, what time you clock back in from your meal break,
22 the time you stop and your total. The time capture
23 system asks for your daily totals.

24 Q. So if you're using the time capture system to
25 enter your time card information --

1 A. Yes.

2 Q. -- you enter the time your shift begins; is
3 that correct?

4 A. No. You enter your daily total.

5 Q. All right. You enter a daily total of hours
6 worked; is that right?

7 A. Correct.

8 Q. So you would enter, for example, eight hours?

9 A. Exactly.

10 Q. All right. What other data do you enter other
11 than your total hours worked?

12 A. Your assignment number and your -- I think
13 it's the last four digits of your Social Security
14 number.

15 Q. Anything else?

16 A. I don't believe so.

17 Q. Is any data entered regarding meal periods
18 taken?

19 A. Only as part of the summary of the total hours
20 that you're indicating on a daily basis.

21 Q. Does the summary depict the fact that a meal
22 period was taken or not?

23 A. Well, it's assumed that a meal period is
24 taken.

25 Q. My question is more specific than that. Does

1 system to record a time card, is any record kept by
2 Adecco of a meal period?

3 A. No.

4 Q. Are you aware of any requirement under
5 California law that requires an employer to maintain
6 records of meal periods taken by employees?

7 MR. BARKER: I'm going to object to the extent
8 it calls for a legal conclusion. She's not here as a
9 lawyer, not testifying as a PMK on legal requirements.

10 Q. BY MR. QUALLS: You can answer, ma'am.

11 A. I read something to that effect in the wage
12 order.

13 Q. When did you first become aware of that?

14 A. Of the wage order? That specific piece of it?

15 Q. When did you first become aware of a
16 requirement under California law that an employer
17 maintain a record of a meal period taken by a California
18 employee?

19 A. I don't recall.

20 Q. Was it this year?

21 A. I -- I think I was made aware of it several
22 years ago and then I reviewed again recently.

23 Q. When you first became aware of it, did you
24 take any steps to ensure that Adecco maintained records
25 of meal periods for California employees?

1 A. Yes. Because we do ask our associates to fill
2 out the paper time card if that's the time capture
3 method that's being used.

4 Q. Did you --

5 A. And we ask them to turn the time cards in to
6 us.

7 Q. Did you take any other steps?

8 A. No.

9 Q. When an employee uses the time capture system
10 to enter time card information, does the employee enter
11 the time worked began and the time worked ended in a
12 given day?

13 A. No.

14 Q. Does the employee enter the number of hours
15 worked on a given day?

16 A. Yes.

17 MR. QUALLS: Off the record.

18 (Discussion off the record.)

19 Q. BY MR. QUALLS: Turning your attention again
20 to Exhibit 3 on the top.

21 A. Yep.

22 Q. There's a reference to "Call in your hours to
23 ATS"?

24 A. Automated time sheet I think is what that
25 stands for.

1 Q. What percentage of employees use ATS to submit
2 a time sheet?

3 A. I don't know.

4 Q. Are you able to estimate the percentage?

5 A. I'm not. It really would depend.

6 Q. Do most employees use ATS?

7 A. No.

8 Q. How long has the ATS system been used by
9 Adecco?

10 A. I don't know.

11 Q. What is your best estimate of when Adecco
12 began using the ATS system?

13 A. About four, five years ago. I don't know.
14 Someone would have to verify that.

15 Q. Are there any written instructions provided
16 employees on the subject of how to use the ATS system?

17 A. No. I believe it's self-explanatory. It
18 walks them through. It's an automated system.

19 Q. Does the ATS system capture meal period
20 information?

21 A. I don't believe so.

22 Q. What information does the ATS system capture?

23 A. I believe it's the same as the web time where
24 it captures daily hours.

25 Q. Are employees who use the ATS system required

1 Q. How long are ATS records kept?

2 A. I don't know.

3 Q. If you wanted to know the answer to that
4 question, who would you ask?

5 A. I would ask our operations department or our
6 IT department.

7 Q. Do you know where ATS records are kept?

8 A. No. Not specifically.

9 Q. For employees who use the ATS system but do
10 not submit a paper time card to Adecco, is a record kept
11 by Adecco of meal periods?

12 A. No.

13 Q. Some Adecco employees use paper time cards; is
14 that correct?

15 A. Yes.

16 Q. The paper time card is in fact Exhibit 3; is
17 that correct?

18 A. Exactly.

19 Q. And Exhibit 3 -- withdraw the question.
20 To whom do Adecco employees using Exhibit 3
21 submit their time cards?

22 A. It depends. They could submit it to the
23 branch or they could fax it to the branch or if they
24 work at a client where Adecco has a presence, they could
25 turn it in to the on-site person at the client. They

1 could leave it in some kind of box that someone from
2 Adecco comes by and picks up. There's a million
3 different options.

4 Q. Once a time card such as Exhibit 3 has been
5 submitted by an employee, where does the time card go?

6 A. To -- either to our Adecco office or to a
7 location where there's someone that does the inputting
8 of the time.

9 Q. So time card data input is done either at the
10 Adecco office or some other site where that function is
11 performed, correct?

12 A. Unless the associate did their own data input
13 through the web time or the ATS system.

14 Q. Understood. Now, for purposes of my
15 questioning now I'm going to be asking questions
16 regarding those employees who only submit a paper time
17 card. All right?

18 A. Okay.

19 Q. When data is input for a paper time card at an
20 Adecco office, what data is input?

21 A. The total daily hours.

22 Q. Any other data?

23 A. No.

24 Q. Once the data is inputted, what is done with
25 the paper time card?

1 MR. BARKER: You mean other than the time card
2 itself or are you talking about on the inputted stuff?

3 MR. QUALLS: Yes.

4 MR. BARKER: Which are you talking about?

5 MR. QUALLS: All right. I'll rephrase.

6 Q. When time card data is input other than the
7 time card itself, is any other record created regarding
8 meal period data?

9 A. No.

10 MR. BARKER: You want a break?

11 THE WITNESS: Does anybody feel like taking a
12 break?

13 MR. QUALLS: You can take a break anytime you
14 wish.

15 (Whereupon a break was taken from 11:18 to
16 11:39.)

17 Q. BY MR. QUALLS: All right. Back on the
18 record. Turning your attention again to Exhibit 3.

19 A. Okay.

20 Q. The second page, the back page.

21 A. Yes.

22 Q. Under the section for associate, do you see
23 that?

24 A. Yes.

25 Q. This section informs the associate what steps

1 Q. Any other way?

2 A. I can't think of anything.

3 Q. When a hard copy time card is used, how are
4 those time cards submitted by the employees to Adecco?

5 A. You're referring to the punch clock time?

6 Q. Yes.

7 A. Through a variety of ways. Adecco could come
8 by the client's site and take copies of the time cards.
9 The customer could fax them to our office.

10 Q. At some point those time cards arrive at
11 Adecco data input center; is that correct?

12 A. Right. Or the branch, they data input
13 themselves.

14 Q. Do the punch cards contain meal period data?

15 A. It would show the times they clocked in and
16 clocked out, so yes.

17 Q. Does the punch card data -- withdraw the
18 question.

19 Is the punch card data inputted into any
20 system once it is -- once it has arrived at an Adecco
21 branch?

22 A. We would input through the time.adecco.com.

23 Q. Same system you described earlier?

24 A. Yes.

25 Q. Does that inputting of data include input of

1 data for meal breaks?

2 A. No. That time.adecco.com does not change
3 based on what you're inputting. It asks you for the
4 same information, which is daily hours.

5 Q. Is swipe card data input into the system?

6 A. In some cases it is. In some cases it's a
7 direct upload.

8 Q. Direct upload into the system?

9 A. Into the Adecco system.

10 Q. Is it the same system?

11 A. I don't know the answer. I think so. We'd
12 have to check with our IT guys.

13 Q. When that input or upload takes place, is meal
14 data uploaded or inputted?

15 A. In some cases it is.

16 Q. In what cases is it?

17 A. It depends on the clocks. Some clocks upload
18 all of the information, some clocks upload total hours.

19 Q. When you say "clocks," what do you mean?

20 A. Some time capture systems.

21 Q. You've described thus far a time capture
22 system that does not capture meal data, correct?

23 MR. BARKER: Say that again.

24 Q. BY MR. QUALLS: You have described thus far a
25 time capture system that does not capture meal data.

1 direct upload just because of the sophistication of the
2 tool.

3 Q. Do you know if in that process meal period
4 data is captured in the --

5 A. I don't know.

6 Q. -- time capture system? Where employee time
7 records are captured by time clocks provided by clients,
8 is there a time capture system that captures that data?

9 A. I think --

10 MR. BARKER: The question's vague.

11 THE WITNESS: I think it would depend on the
12 system. There's always going to be a variety of
13 different ways of capturing because it depends on the
14 tools. So it could be that it does a direct upload,
15 that would be ideal --

16 MR. BARKER: That's not what he asked you.

17 THE WITNESS: Sorry. Okay. Start over. Tell
18 me the question again.

19 MR. QUALLS: Sure. Would you read back the
20 question, please.

21 (Whereupon the record was read as requested.)

22 THE WITNESS: I don't know.

23 Q. BY MR. QUALLS: Do you know how employee time
24 -- does the time -- withdraw the question.

25 Do time capture systems capture information

EXHIBIT H.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SHAVOTNAE GOLDSBY,

Plaintiff(s),

NO. C- 07-5604 MMC

vs.

**PRETRIAL PREPARATION
ORDER**

ADECCO, INC.,

Defendant(s).

_____ /

It is hereby **ORDERED** pursuant to Federal Rules of Civil Procedure and the Local Rules of this Court:

JURY TRIAL DATE: Monday, May 4, 2009 at 9:00 a.m., Courtroom 7, 19th floor.

TRIAL LENGTH is estimated to be 6 to 9 days.

DISCOVERY PLAN: Per Federal Rules of Civil Procedure and Local Rules, subject to any provisions below.

NON-EXPERT DISCOVERY CUTOFF : November 21, 2008.

DESIGNATION OF EXPERTS:

Plaintiff/Defendant: No later than December 12, 2008.

Plaintiff/Defendant: Rebuttal no later than December 26, 2008.

Parties shall conform to Federal Rule of Civil Procedure 26(a)(2).

EXPERT DISCOVERY CUTOFF : January 16, 2009.

DISCOVERY MATTERS are referred to a Magistrate Judge and are to be noticed for hearing before the assigned Magistrate Judge.

DISPOSITIVE MOTIONS shall be filed no later than January 30, 2009, and shall be noticed for hearing 35 days thereafter.

SETTLEMENT CONFERENCE shall be held before Magistrate Judge _____ and scheduled to take place no later than 30 days prior to the Pretrial Conference.

PRETRIAL CONFERENCE DATE: April 21, 2009 at **3:00 p.m.**

COUNSEL WHO INTEND TO TRY THE CASE MUST ATTEND THE PRETRIAL CONFERENCE. Counsel shall be prepared to discuss all aspects of the case, including settlement. Pretrial shall conform to the attached instructions.

MEET AND CONFER (Civil L.R. 16-10(b)(5): Lead trial counsel shall meet and confer no later than March 16, 2009.

FURTHER STATUS CONFERENCE: Friday, February 6, 2009 at 10:30 a.m.

FURTHER STATUS CONFERENCE STATEMENT DUE: Friday, January 30, 2009.

ADDITIONAL ORDERS: Case previously referred Private Mediation, by agreement of the parties.


Deadline to file amended pleadings is April 1, 2008.

Briefing Schedule on Plaintiff's Motion for Class Certification:

Plaintiff to file motion by July 7, 2008, Opposition due by August 6, 2008,
Reply due by August 20, 2008, Hearing on Motion: September 5, 2008 at 9:00 a.m..

PLAINTIFF IS ORDERED TO SERVE A COPY OF THIS ORDER ON ANY PARTY SUBSEQUENTLY JOINED IN THIS ACTION.

DATED: February 15, 2008


MAXINE M. CHESNEY
United States District Judge

PRETRIAL INSTRUCTIONS

Counsel SHALL meet and confer in good faith in advance of complying with the following pretrial requirements for the purpose of preparing for the Pretrial Conference and to discuss settlement.

A. TEN COURT DAYS PRIOR TO PRETRIAL CONFERENCE

The following shall be accomplished not later than **ten Court days** prior to the scheduled Pretrial Conference:

1. **PRETRIAL STATEMENT:** The parties shall file a joint pretrial statement which shall set forth:

- (1) The substance of the action;
- (2) The relief claimed, including the particular elements of the damages claimed;
- (3) The factual issues remaining, as well as any stipulations of fact;
- (4) The legal issues, including a concise statement of each disputed point of law concerning liability or relief and citing supporting statutory and case law;
- (5) A current estimate as to the length of the trial;
- (6) The status of the case with respect to alternative dispute resolution.

2. JURY INSTRUCTIONS:

a. **Joint Set of Agreed Upon Instructions:** The parties shall jointly prepare a set of **agreed upon** jury instructions, which shall be filed **ten Court days** prior to the Pretrial Conference. Whenever possible, counsel shall deliver to the Courtroom Deputy a copy of their proposed jury instructions, in the same order as their joint submission, on a CD or 3-1/2" floppy disk in WordPerfect format. The disk label shall include the name of the parties, the case number and a description of the documents.

b. **Separate Instructions:** Separate instructions may be submitted only as to those instructions upon which the parties cannot agree. Each separate instruction shall note on its face the identity of the party submitting such instruction.

No later than **ten Court days** prior to the Pretrial Conference, the party or parties objecting to an instruction shall file a written objection to such instruction. The form of the objection shall be as follows:

- (1) Set forth in full the instruction to which the objection is made;
- (2) Provide concise argument and citations to authority explaining why the opposing party's instruction is improper; and
- (3) Set forth in full an alternative instruction, if any.

The separate instructions with objections shall be filed **ten Court days** prior to the Pretrial Conference.

c. **Substance and Format of Instructions:** The instructions shall cover all substantive issues. Proposed instructions shall be consecutively numbered. Each proposed instruction shall be typed in full on a separate page and cover only one subject, to be indicated in the title. Citations to the authorities upon which the instruction is based shall be included. Instructions shall be **brief, clear, written in plain English and free of argument**. Pattern or form instructions shall be revised to address the particular facts and issues of this case.

d. **Preliminary Statement and Instructions:** If the parties wish to have a preliminary statement read to the jury, and/or preliminary instructions given to the jury, they shall jointly prepare and submit to the Court, **one week** prior to trial, the text of the statement and instructions, clearly marked.

e. **Clean Copies:** The parties shall be prepared to submit two clean copies of instructions without citations, titles or attribution on or before the date trial commences.

3. **FINDINGS OF FACT and CONCLUSIONS OF LAW:** In non-jury cases, each party shall serve and lodge with the Court proposed findings of fact and conclusions of law on all material issues. Proposed findings shall be brief, written in plain English and free of pejorative language and argument. Whenever possible, parties shall deliver to the Courtroom Deputy copies of proposed findings of fact and conclusions of law on a CD or 3-1/2" floppy disk in WordPerfect format. The disk label shall include the name of the parties, the case number and a description of the documents.

4. **EXHIBITS:**

a. **Provide Copies of Exhibits to Other Parties:** Each party shall provide every other party with one set of all proposed exhibits, charts, schedules, summaries, diagrams and other similar documentary materials to be used in its case in chief at trial, together with a complete list (**see attached**) of all such proposed exhibits. Voluminous exhibits shall be reduced by

elimination of irrelevant portions or through the use of summaries. Each item shall be pre-marked with an exhibit sticker (see attached), plaintiff's exhibits with numbers, defendant's exhibits with letters or with numbers sequenced to begin after plaintiff's exhibit numbers. If there are numerous exhibits, they should be provided in three-ring binders with marked tab separators. All exhibits which have not been provided as required are subject to exclusion.

b. Stipulations re Admissibility: Prior to the Pretrial Conference, the parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at the Pretrial Conference. If stipulation to admission in evidence is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

c. Provide Copies of Exhibits to Court: Three sets of exhibits shall be provided to the Court on the first day of trial. Each set shall be in binders, tabbed and indexed.

d. Disposition of Exhibits After Trial: Upon the conclusion of the trial, each party shall retain its exhibits through the appellate process. It is each party's responsibility to make arrangements with the Clerk of the Court to file the record on appeal.

5. **WITNESSES:**

a. Jury Trials: The Pretrial Conference Statement shall include a list of witnesses likely to be called at trial, other than solely for impeachment or rebuttal, together with a brief statement following each name, describing the testimony to be given. Expert witnesses shall be listed separately. Witnesses not included on the list may be excluded from testifying.

b. Non-Jury Trials: In non-jury cases, each party shall serve and lodge with the Court a written narrative statement of the proposed direct testimony of each witness under that party's control in lieu of a summary. Each statement shall be marked as an exhibit and shall be in a form suitable to be received into evidence.

6. **MOTIONS IN LIMINE**: Motions in limine are limited to motions to exclude specific items of evidence (i.e. specific testimony or exhibits) on a ground and upon such authority as would be sufficient to sustain an objection to such evidence at trial.

Motions in limine shall be filed and served no later than ten Court days prior to the date set for the pretrial conference. Any party opposing such a motion in limine shall file and serve its opposition papers no later than five Court days prior to the pretrial conference. No reply papers will be considered.

B. ONE COURT DAY PRIOR TO PRETRIAL CONFERENCE

The following shall be accomplished not later than **one Court day** prior to the Pretrial Conference:

1. **List of Exhibits With Stipulations and Objections** - The parties shall file with the Court a list of all exhibits admitted by stipulation; and a list of all exhibits as to which objections have been made, with a brief notation indicating which party objects and for what reason.
2. **Objections to Other Evidence** - In addition to exhibit lists, counsel shall confer with respect to any other evidentiary objections in advance of the Pretrial Conference as required by Local Rule. Each party shall file and serve a statement briefly identifying each item objected to, the grounds for the objection and the position of the offering party as stated at the conference.
3. **Voir Dire and Verdict Forms** - Each party shall serve and file proposed questions for jury voir dire and a proposed form of verdict.

C. OTHER PRETRIAL MATTERS

1. **Citations** - In all Pretrial Statements, memoranda of points and authorities and jury instructions, citations shall be as follows: (1) all United States Supreme Court citations shall be to both the official reporter and to the West Supreme Court Reporter, (2) all citations to California state courts shall be to both the official reporter and to the West California Reporter, and (3) all citations to the courts of any other state shall be to both the official reporter of that state and to the West Regional Reporter.
2. **Settlement Conferences** - Any party utilizing another form of Alternative Dispute Resolution who wishes to arrange a settlement conference before a judge or magistrate judge thereafter may do so by contacting the Courtroom Deputy.
3. **Copies** - Unless otherwise indicated, each document filed or lodged with the Court must be accompanied by a copy for use in the Judge's chambers. In addition, one copy of the witness and exhibit lists should be furnished to the court reporter.
4. **Daily Transcripts** - If transcripts will be requested during or immediately after trial, arrangements must be made with the court reporter at least **one week** before trial commences.

Attachments

DATE: _____

[illegible]

Case No. _____ PLNTF Exhibit No. _____ Date Entered _____ Signature _____	Case No. _____ DEFT Exhibit No. _____ Date Entered _____ Signature _____
Case No. _____ PLNTF Exhibit No. _____ Date Entered _____ Signature _____	Case No. _____ DEFT Exhibit No. _____ Date Entered _____ Signature _____
Case No. _____ PLNTF Exhibit No. _____ Date Entered _____ Signature _____	Case No. _____ DEFT Exhibit No. _____ Date Entered _____ Signature _____
Case No. _____ PLNTF Exhibit No. _____ Date Entered _____ Signature _____	Case No. _____ DEFT Exhibit No. _____ Date Entered _____ Signature _____
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